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U.S. Department of the Interior

REPORT

OF

COMMISSION APPOINTED BY THE SECRETARY OF
THE INTERIOR

TO

INVESTIGATE CERTAIN CHARGES AGAINST HON. E. P. SMITH,
THE COMMISSIONER OF INDIAN AFFAIRS.

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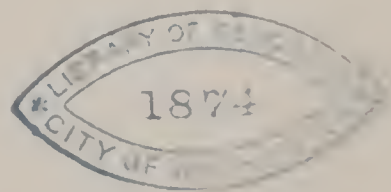
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REPORT.

WASHINGTON, *February 2, 1874.*

SIR: By your letter of November 8, 1873, the undersigned were appointed a commission to investigate certain charges made against Edward P. Smith, now Commissioner of Indian Affairs, in regard to a contract made by him while agent of the Chippewa Indians, in Minnesota, for the sale to A. H. Wilder, of Saint Paul, of a large quantity of pine timber, on what is known as Leech Lake reservation, to the effect that said contract was fraudulently consummated, and that the accused had some interest in it. Connected with the charge was the allegation that the timber was sold at a greatly inadequate price, and that a large portion of it was actually given away.

The commission was instructed to proceed at once to make a thorough and full investigation of the subject referred to; and also, if in the course of their investigation they should arrive at the conclusion that the charges had been made without sufficient cause, to proceed to inquire into their authorship, and ascertain, if possible, the reasons actuating the party or parties making or causing the same to be made. By a subsequent letter of the date of November 19, 1873, the Hon. Secretary, at the request of the accused, directed the commission to make thorough and full investigation into all matters touching the official actions of Mr. Smith while Indian agent in Minnesota, concerning which any respectable man should be found to make any complaint.

Having completed the investigation in accordance with these instructions, the undersigned, referring to the journal hereto attached for a detailed account of their proceedings, have now the honor to submit a report of the facts elicited and their conclusions in reference to the same.

The charges referred to, however or wherever originated, appear to have been first published at Saint Paul, Minnesota.

The commission, therefore, having reported at Washington for instructions, determined to commence their labors at this city, as being the most convenient with reference to the residence of witnesses as well as the subject-matter to be investigated.

Having on the 22d November, 1873, notified the publisher of the newspaper in which the accusations had appeared, of their appointment to investigate these charges, and of the time and place of their meeting, the commission assembled at Saint Paul on the 28th of said month. A similar notice was also sent on the 24th November to Mr. Wm. Welsh, of Philadelphia, suggesting that, as it was understood he was in possession of facts material to the investigation, it was desired that he should be present at the time and place mentioned to give evidence before the commission. Notice was likewise published in the papers of the city of Saint Paul, of the fact of our appointment, the nature of the investigation we were conducting, with a request that all persons cognizant of facts material to the same should appear and give testimony before the commission.

The journal of our proceedings will show the facts connected with the appearance of Mr. Welsh and the publisher of the newspaper already referred to, by their attorneys, the delays occasioned by their re-

quest to allow time for the preparation of the charges, the filing of the charges by Mr. Welsh, the further delay granted at the request of his attorneys to arrange their evidence for the hearing; and the fact that at the expiration of this time these attorneys, by written communication, announced that they had determined not to proceed with the investigation, alleging as a reason for a conclusion so extraordinary under all the circumstances connected with the indulgence granted them, that the commission had no authority to compel the attendance of witnesses and the production of papers.

Understanding the purpose of the Secretary of the Interior to be a full and fair investigation of the charges referred to, and that the interest of the service as well as justice to the party accused demanded it, the commission resolved to proceed to the duties assigned.

Not being able to procure information in any tangible form of accusations made by any party against Mr. Smith other than those specified in the charges filed by Mr. Welsh on the 6th of December, 1873, and the accused having, at our suggestion, filed his answer to the same, the commission resolved to proceed with the examination of witnesses and documents material to the issues thus presented.

In directing the issuing of subpoenas for witnesses, it was our purpose to select the persons most likely to be informed in regard to the facts upon which the charges were based; and, in nearly every instance, the selection was made without any previous information as to the character of the testimony to be elicited.

Besides these disinterested witnesses, the commission examined, under oath, the parties accused, Mr. Smith voluntarily offering to be sworn for this purpose, and it is believed that the testimony (a true record of which is here reported) will show that these witnesses were fully and thoroughly interrogated as to all matters bearing upon these charges.

The charges filed by Mr. Welsh are as follows:

First. Agent Smith, about August 12, 1872, contracted with P. Clarke for a large quantity of pine timber, belonging to the Oak Point Chippewas, under the avowed authority of those Indians, but without making their approval a part of the contract, and without allowing a sufficient time for the bidder to visit the reservation and ascertain the value of the timber.

Second. Although the approval by the Indians was not a part of the contract, yet E. P. Smith sent the following telegram to F. P. Clarke, care of R. J. Baldwin, from Aiken, Minnesota, October 14, 1872:

"The Indians at Oak Point deny giving their chief authority to negotiate the pines. The chief confesses to the same. This seems to nullify all proceedings in relation to the same."
"E. P. SMITH, *Agent*."

[45 cents Government rate.]

Agent Smith is thus understood to cancel a contract that he had made, without consulting with the authorities at Washington. The following extract from a letter from Commissioner Smith to me, dated at Washington, November 26, 1873, gives his version of it:

"At the annuity at White Oak Point, the chiefs went back on their request to sell their pine, and stated that they had never made it. As I had no authority, at that time, to sell except on the consent of the Indians, this want of consent, on their part, nullified the contract which I supposed at that time would be approved by Commissioner Walker. I so notified Mr. Clarke by first telegraph station reached after making the payment. Commissioner Walker's disapproval reached me by mail the next day, October 15, at Brainard, having been forwarded from my headquarters, White Earth."

Agent Smith thus undertook to cancel the contract that had been completed, although he avers that he did not know of any higher offer, and had no intercourse of any kind with Mr. Wilder, the new bidder, until the following day, when he reached Brainard, where he received Commissioner Walker's letter of September 18, (or thereabouts,) notifying him that A. H. Wilder had offered \$1.60 for the same pine timber, and authorizing Agent Smith to contract with Wilder, if no better can be secured by further advertisement. The cancellation of the Clarke contract, under the circumstances, seems so improbable that I trust the commission will investigate the facts relating thereto, and especially if there was any previous intercourse between Wilder and Smith, which seems probable, as Smith announced

publicly that the Clarke contract was canceled solely because Wilder had made a higher offer: never, that I heard of, in any way referring to his telegram to Clarke until I put the direct question to him, November 24.

Third. Agent Smith acted without authority of law in making the foregoing and other contracts for the sale of large bodies of pine timber, which is real estate, and cannot be disposed of without the authority of Congress.

Fourth. Agent Smith did not cancel the contract made with Merriam for Red Lake and Pembina pine, at \$2.50, although Clarke offered \$3 for the same, and Commissioner Walker gave him authority to contract with Clarke, if no better could be done by advertising for proposals. Here is a double wrong: not advertising, as suggested by the Commissioner of Indian Affairs, and refusing the higher offer by a man whom he had wronged by canceling the White Oak Point contract before he knew that any higher offer had been made.

Fifth. Agent Smith wrongfully, and, as it is believed, fraudulently, contracted with A. H. Wilder, on November 8, 1872, for a large body of pine timber at a rate far less than its value, say \$1.15 per thousand feet, without advertising it, and with the knowledge that the Indians had refused to assent to the sale of their pine timber. E. P. Smith asserts that this contract was made by Commissioner Walker, while Mr. Walker states that he assented to it without knowledge on his part, and solely because of his confidence in Agent Smith. Said letter shows that Agent Smith kept from Commissioner Walker, as he did from the public, the fact that the Indians at Oak Point had refused their assent to a contract for the sale of their timber. Mr. Smith has publicly asserted that the Indians had never been conferred with about the sale of timber; that he intended to confer with them, but had not time owing to his promotion, and that he had asked his successor to confer with them.

Sixth. Agent E. P. Smith wrongfully, and, as is believed, fraudulently, attempted, on two or more occasions, to induce Agent Clarke, of the Missomi Chippewas, to cancel a contract for the sale of pine timber he had made October 2, 1872, with Rust. Wilder writes to Agent Clarke, under date of December 6, 1872, in substance as follows:

"I forwarded you a few days since, through Major E. P. Smith, my proposition. I now, at Major Smith's suggestion, send a contract signed by myself."

Testimony on this head can be had from the late Agent Clarke, now in the hospital at Saint Paul, or from the Hon. Henry M. Rice, who, I believe, has the correspondence in possession.

Seventh. Agent E. P. Smith wrongfully, and, as it is believed, fraudulently, concerted with the Rev. E. Williams, Gen. Charles Howard, Agent Clarke, and B. S. Simmons, of Connecticut, at Chicago last spring, say in March or April, for the sale to B. S. Simmons, of Hartford, of a large body of pine land on the Lac de Flambeau reservation. Clarke, Howard, or Williams can testify that Smith not only united in the negotiation, dictating the terms of the contract, but also gave Clarke reasons that he might assign for that fraudulent transaction. This pine timber had not been advertised for sale, and could only be disposed of in direct violation of a law of Congress authorizing the removal of the Chippewas from the Lac de Flambeau reservation, and indicating the mode by which the land was to be appraised and sold. If you will examine Commissioner Smith he will testify, as he did to me two days since, that he endeavored to get this contract approved after he became Commissioner of Indian Affairs, and that he was only hindered by Congressmen from Wisconsin, who opposed the sale without advertising. The parties who concocted the fraudulent sale managed to keep it a profound secret until Agent Clarke divulged it, because of conscientious convictions of the wrong into which he had been betrayed by others. By examining the late Agent Clarke or the Hon. H. M. Rice, you will get a copy of the contract or of the letters written by Agent Clarke when he sent it to Washington for approval. Colonel Chinn, chief clerk in the Indian Department, and the other clerks, searched in vain for this contract, or for any trace of it, or for the letters of Agent Clarke which he wrote to the Indian Office in relation to it. Commissioner Smith, when questioned by me two days since, said he did not know what had become of the contract or of Clarke's letters in relation to it.

As your commission desires to reach the truth, whether obtained equitably or legally, I have not thought it wise to put these charges in legal form.

This is the first draught from dictation: and they could have been put much more strongly by the examination of papers in my possession.

It is a very painful duty to me, as I had a stronger personal interest in the party charged with wrong-doing than either of you had.

Yours, very respectfully,

WM. WELSH.

It will be observed that by the first charge two objections are made to the contract entered into by the respondent for the sale to F. P. Clarke of what was designated as the White Oak Point pine, to wit:

First. That while it was made on the avowed authority of the Indians, their approval was not made part of the agreement.

In reference to this, we have to say that we have not been able to learn that there was any law or practice of the Department requiring such approval to be incorporated in the contract, or that any injury could result from its omission; and certainly the facts in relation to this transaction, as detailed by the evidence, show that no harm was done or intended.

In regard to the other objection, to wit, that sufficient notice was not given, the testimony shows that publication was made in the newspapers for nearly four weeks, giving ample time to inform all the lumbermen and timber-dealers accustomed to handle pine in that country. It also appears that such dealers have the means of informing themselves as to the character of the timber, its location with reference to lakes and streams, for driving, &c., from parties who, as professional explorers, are fully informed in such matters. It was not, therefore, necessary to allow time for these explorations after the first publication of notice, which might have required several months, while the condition and necessities of the Indians required the most expeditious arrangement consistent with a due regard for the protection of their rights. There is nothing in the testimony to show, that in making this contract, the respondent had any other purpose than the promotion of the best interests of the Indians; and, indeed, the facts disclosed satisfy us, as we think they will every unprejudiced mind, that he could have been actuated by no other motive.

The third charge contained in the specifications filed by Mr. Welsh alleges that "Agent Smith acted without authority of law in making the foregoing (Wilder) and other contracts for the sale of large bodies of pine timber, which is real estate, and cannot be disposed of without authority of Congress." This specification is in the main a statement of what the prosecutor supposes to be the law, and does not contain specific allegations of matters of fact charging the defendant with misconduct, unless it be assumed that the sale of the pine timber in question was made under such circumstances and knowledge of the law and facts that its illegality was so glaring and palpable as to induce the conclusion that the party charged, with fraudulent intent, or regardless of his plain duty in the premises, made, or advised the contract to be made. In this view it appears to us proper to state certain facts that must have been known to General Walker, who agreed upon the terms of the contract, and to Mr. Smith, who advised its execution. Contracts for the sale of pine timber as an article of commerce, independent of, and without the sale of the land producing pine have been repeatedly made ever since the increase of population and business in Minnesota, and the facilities for taking it to market have created a demand and rendered the business profitable. To such an extent has this business been conducted that the legislature of the late Territory of Minnesota provided by law for the appointment of an officer called the surveyor-general of logs and lumber, whose duty it was, among other things, to scale the logs cut in the pineries or in the booms into which they were driven, so as to ascertain for the purchaser, and for the land-owner and lumbermen the amount of logs actually cut upon any given tract, or marked with any specific mark; such measurement being evidence of the quantity cut.

Provision was also made for the recording (in the office of the surveyor-general) of the marks placed upon the logs of the different operators for the benefit of the land-owner, lumbermen, or material men, the record of which protected the party in whose name it was recorded in their ownership of or lien upon the logs. This legislation has been revised and will be found, as at present in force, in the general

statutes of the State of Minnesota, collated in 1866, under title of "Logs and Lumber."

Contracts of this kind have been repeatedly made, and, indeed, it is the practice of the State of Minnesota to dispose of the pine timber upon the school, swamp, and university lands belonging to the State, granting permits for that purpose according to the universal practice, and charging so much per thousand feet without disposing of the lands upon which the pine is grown. The same practice has been followed by the land-grant railroad companies owning pine lands in said State; and an examination of the files of the Indian Office will show that like sales of pine have been made from time to time for the benefit of the Indians upon the Indian reservations in Minnesota and Wisconsin.

One of the earliest of these transactions is a sale of the pine upon the reservation of the Rabbit Lake Chippewa Indians of Minnesota, to D. Morrison, now of Minneapolis, which appears to have been approved July 30, 1860, the consideration to be paid being secured to the Indians interested. We observe, by the papers on file in the Indian Office, that this contract was sanctioned and recommended by the Hon. Henry M. Rice, who appears to have been deeply impressed that such sales were legitimate and necessary for the support and benefit of the Indians. Mr. Rice is therefore entitled to the credit, to a great extent, for the inauguration of the policy now complained of. Thus it will be seen that the policy of the Department, of the State of Minnesota, and generally of the owners of pine timber land is to sell the pine under stumpage permits, without disposing of the land, the purchaser having a license to enter for the purpose of cutting and removing the timber, without acquiring any interest in the soil.

The reservation in question containing large bodies of pine, the greater portion of the land being unsuitable for cultivation, it became a question with Commissioner Walker and Agent Smith as to whether the pine in question should be used as a means of support for the Indians, and the Treasury of the United States relieved to that extent, or whether it should be allowed to remain unproductive and useless. This land was set apart by the treaty as a permanent home for the Indians, and as the portions covered with pine could neither be cleared, if fit for cultivation, nor used for their benefit if unfit, without making some disposition of the pine, it is clear that this timber must be disposed of separately from the land, as the area of the reservation cannot be reduced until the provisions of the treaties existing with those Indians are so changed as to authorize it. Whatever title the United States may have is held in trust, and the Government is the trustee or guardian of the Indians so far as this property is concerned. Keeping in view the commercial character of the article in question, and the facts aforesaid, which are presumed to have been known to the parties to the contract, it is not so clear as the prosecutor supposes that the pine in question constitutes real estate, so as to prevent its disposition without additional congressional legislation. That growing timber, grass, &c., will pass by a conveyance of the land without specially reserving them, of course no one denies. That, however, is not exactly the question presented in this case.

As to whether growing trees may be disposed of by parol, and severed from the realty as an article of commerce without deed, is a question about which learned judges have differed; and Commissioner Walker and Agent Smith may be excused if they have in fact exceeded their authority. It appears to us that the weight of authority is against

Mr. Welsh's assumptions, and that the following proposition is sustained by the English and American authorities, to which we have had access, to wit: "If sold specifically, and if, by the terms of the contract, deliverable separately, and as chattels, such a contract of sale is not affected by the fourth section of the statute, as amounting to the sale of any interest in the land; and that the rule is the same when the transaction is of this kind, whether the product sold be trees, grass, and other spontaneous growth, or grain, vegetables, or other crops raised by periodical cultivation." (Brown on Statute of Frauds, 3d edition, pp. 241 to 249, inclusive; *Evans vs. Roberts*, 5 Barn. & Cres., 829; *Park vs. Stamlan*, 11 East., 362; *Smith vs. Suman*, 9 Barn. & Cres., 561; *Cain vs. McGuire*, 13 B. Monroe, 340; *Claffin vs. Carpenter*, 4 Mete., 580; 1 Lord Raymond, 182; *Whitmouth vs. Welcker*, 1 Mete. 313.) These authorities, and the rule deduced therefrom by Mr. Brown in his work on the statute of frauds, mainly apply where sales of timber are involved, to timber other than pine, and not possessing the same commercial character and value. The curious on this subject may also refer to the case of the *United States vs. Nathaniel Foster*, decided by Judge Drummond, of the circuit court of the United States for the eastern district of Wisconsin in October, 1870, reported in the *Chicago Legal News* of January 7, 1871, in which a sale of pine by Indians on their reservation was held to give the purchaser such a title to the pine that an action of replevin by the United States could not be sustained.

In this connection it may not be improper to consider the question as to whether the Department, acting as the trustee or guardian of these Indians, is legally bound to procure the assent of the Indians before making a contract, or their ratification afterward.

If previous consent is necessary, and the ward has the power to control the action of the guardian, then it is pretty evident to us that the influence of local traders and others may be found potential enough to prevent the consummation of any contract that does not provide for their actual or pretended claims against Indians.

The Chippewas interested in these lands are divided into numerous bands, there being no less than ten in all.

People knowing nothing of the value of pine timber, and subject to the influence of local traders and others related to them by blood—fit instruments in the hands of designing and unscrupulous parties who may be interested in the prevention of such contracts, or any contracts not containing provisions that meet their approval, or desirous to restore the old order of things by opposing the policy of the Department—can hardly be expected to agree to any proposition, however beneficial to them, while subject to these influences.

In view of these considerations, we think it probable that the only practicable course for the Government is to assume the responsibility of conducting these negotiations, and satisfying the Indians by an explanation of their terms and advantages after the contracts are made.

This much, in reference to the legal question suggested, we have deemed it not improper to submit, in connection with its bearing upon the good faith of the accused, without intending to assume the decision of a question that more appropriately belongs to the law-officers of the Government.

The fourth charge preferred by Mr. Welsh is, that "Agent Smith did not cancel the contract made with Merriam for the Red Lake and Pembina pine at \$2.50 per thousand, although Clarke offered \$3 for the same if no better could be done by advertising for proposals." To this Mr. Welsh adds, by way of comment, "Here is a double wrong—not

advertising, as suggested by the Commissioner of Indian Affairs, and refusing the higher offer, by a man whom he had wronged, by canceling the White Oak Point contract before he knew that any higher offer had been made."

In view of the testimony bearing upon this charge, we find it difficult to understand why Mr. Welsh should be so careless in the statement of facts in connection with these grave accusations. As to the "double wrong" here alleged against Mr. Smith, Mr. Welsh ought to have known that the bidder here mentioned is Mr. N. P. Clarke, and that the bidder for the pine at White Oak Point, Mr. F. P. Clarke, was another individual.

We have taken the testimony of N. P. Clarke, who made the bid for the timber included in the Merriam contract. This witness states his connection with the matter in substance as follows: Having heard of the Merriam contract, he sent a telegram to Washington with an offer of \$3 per thousand for the timber therein mentioned. After making inquiry as to the quality, location, and the market for this timber, he became satisfied that there was no money in the contract, and therefore withdrew his bid, as he supposed he had a right to do, at any time before it was accepted.

From the testimony of Mr. Smith it appears that the Merriam contract was approved by the Commissioner while Mr. S. was in Washington, and before he knew of the higher bid by Clarke; that the first notice he received of this Clarke bid was contained in a letter from the Commissioner awaiting his arrival upon his return to Minnesota, which required no attention, the other contract having been approved by the Commissioner, for the reason, as must be inferred, that the Clarke bid had been withdrawn.

Mr. Clarke also states that this timber is situated in the northwestern part of Minnesota, and has to be driven down the Red River to Manitoba and the British Possessions for market; that upon investigation he became satisfied it was not worth the price bid by Merriam; and that he, Clarke, has no acquaintance whatever with Merriam, and never had any communication with the respondent in regard to his bid or its withdrawal. These facts were within the reach of Mr. Welsh, and ought to have been understood by him before filing these charges.

The second and fifth charges we shall consider in connection, as they relate to the same subject-matter, to wit: the sale of the timber on the Leach Lake reservation to A. H. Wilder, being the matter specifically mentioned in our instructions as requiring investigation.

The first complaint of Mr. Welsh in reference to this agreement is, that Agent Smith canceled the contract he had made with Clarke without consulting with the authorities at Washington. It will be observed that Mr. Welsh undertakes in this charge to give us his evidence in support of his allegation, to wit, the telegram sent by Smith October 14, 1872, to Clarke, notifying the latter that the Indians denied giving the authority to negotiate for their pine, and adding, "this seems to nullify all proceedings in relation to the same."

By what reasoning the conclusion is reached that this notice to Clarke of a fact so material in a contract that was as yet incomplete and inoperative, because unapproved by the Department, was a cancellation of it, we are unable to conjecture.

The explanation of the respondent, that it was intended only as a notice to Mr. Clarke, so that he might be prepared to meet the objection, and to avoid the expense that might be incurred under the contract, is not only consistent with the language used, but with the subsequent history of the transaction.

Mr. Welsh then gives an extract from a letter of respondent in reference to this denial of the Indians of consent, and repeats the charge that Mr. Smith annulled the contract before he knew of the higher bid by Wilder, and then suggests that the cancellation of the Clarke contract under the circumstances "is so improbable that I trust the commission will investigate the facts relating thereto, and especially whether there was any previous intercourse between Wilder and Smith, which seems probable, as Smith announced publicly that the Clarke contract was canceled solely because Wilder had made a higher bid."

Mr. Welsh's reasoning faculties are peculiar, and therefore we cannot always account for his deductions. The power to cancel this contract lay with the Commissioner of Indian Affairs, and we cannot understand how Mr. Welsh should be ignorant of this fact.

The Commissioner by letter received by Smith after his dispatch to Clarke directed Smith to enter into a contract with Wilder; and this action, which set aside the Clarke contract, was taken solely for the reason of a higher bid, as stated by Smith, while the dispatch to Clarke was based *solely* upon the denial of the Indians of their assent to the sale of the timber at White Oak Point.

With reference to the Wilder contract, which Mr. Welsh charges was wrongfully and fraudulently made at a rate far less than the value of the timber, the result of a patient and thorough investigation of all the facts connected with it, as detailed by the evidence, may be briefly summed up as follows: Mr. Edward P. Smith, as agent of the Chippewas in Minnesota, was located at White Earth, where a settlement of no less than one thousand under his superintendence was regarded as one of the most prosperous and hopeful in reference to their progress in civilization to be found within our borders. The means provided for the erection of houses and the purchase of implements and teams, and the support of schools, had enabled the agency to make such provision for the comfortable support and education of these people that their conversion from the condition of nomadic savages to that of civilized, Christian people seemed to be assured.

Within the superintendence of Mr. Smith were included about four thousand five hundred Chippewas having proprietary rights in the Leech Lake reservation. These Indians seem to have been recognized by the Government as four distinct tribes, to wit: The Cass Lake, Winnebagoish, the Pillager, and the Mississippi Chippewas. The Pillagers, so called on account of their predatory habits, were divided into three bands, living at as many different and widely separated localities, to wit, Leech Lake, Otter Tail, and White Earth.

The Mississippi Chippewas were in a like manner divided into five bands, living in different and widely separated localities, to wit, White Oak, Gull Lake, Mille Lac, Snake River, and White Earth, making in all ten bands thus widely separated, having proprietary interests in the Leech Lake reservation.

The testimony of all the witnesses, including the Chippewas, subpoenaed from White Earth, shows that all the Indians above mentioned, except those residing at White Earth, were reduced to extreme destitution, and more especially those at White Oak Point, and the Pillagers at Leech Lake.

The game was rapidly disappearing so that little else was available for food but fish and berries; these Indians knew nothing of agriculture, and had neither teams nor implements, nor the means for procuring them to derive a subsistence from the cultivation of their lands.

No efforts had been made to instruct them in agriculture or any other

industry. They were, in fact, wild Indians, in the primitive condition of the race, but deprived of the means of subsistence, to which they and their ancestors had always been accustomed. By the laws of the State of Minnesota these Indians had no right to be off their reservation, and here, as the game was nearly exhausted, it was obvious that there was no way of providing for their support, to say nothing of advancing them in civilization, without opening farms and providing for their cultivation. The appropriations under treaties were wholly inadequate for even a beginning in this direction, and efforts to secure additional and adequate appropriations had failed.

It appears that these starving Indians, living upon land that was thus unproductive, had frequently referred to the timber growing upon it, and inquired whether it could not be made available for their relief. Under these circumstances the agent conceived the idea of selling this timber, now wholly unproductive, that a fund might be realized to provide the means for the erection of houses, the purchase of stock and implements, and to establish schools, that these Indians might be placed in the way of civilization, as had been done with those at White Earth.

The Indians in that part of the reservation known as White Oak Point were in the most pressing need of relief, and the agent being authorized by the Department to negotiate for the sale of timber with their assent, and having obtained such assent from those at White Oak Point, advertised for proposals, and finally, in pursuance thereof, entered into a contract with F. P. Clarke (subject, as all such contracts are, to the approval of the Department) for the sale of the timber in this locality, which agreement, as we have seen, was suspended on account of the bid made by Wilder, not to the respondent as agent, but directly to the Commissioner at Washington.

The charges we are investigating, based upon this transaction, as well as the many publications made in connection with them, are so loose and indefinite, that we are left in doubt as to whether it is intended to charge that these sales would, in any case, be a wrong which ought to be prohibited.

If there be, in the judgment of those in authority, any doubt as to the propriety, nay, the absolute necessity of this policy, we feel quite confident that an examination of the testimony upon which the foregoing statement is predicated, will dispel such doubt.

Indeed, unless Congress will provide by special appropriations for the pressing necessities of these people, it is obvious that any delay in realizing from the sale of their timber, will prove disastrous to them.

As an enlightened and Christian nation, we must regard every year, nay, every month of delay in the application of the means at our disposal for the civilization of these Indians, as an inexcusable wrong; but here, it is not only the withholding of the means of civilization, but of the necessary means of subsistence.

This brings us to a more direct examination of the negotiations, resulting in the execution of the contract for the sale of the timber on the Leech Lake reservation, for the purposes here mentioned.

The substance of the charge made by Mr. Welsh, although it is not stated in so many words, is that Agent Smith entered into a corrupt arrangement for the sale of this timber to Wilder, having himself an interest in the contract, or receiving some other consideration for his agency in the transaction. A charge of so serious and grave a nature, should certainly be made only after the most careful consideration, and upon such evidence as would be sufficient to convince fair-minded men that there was at least a strong probability of its truth. All men of character.

whether in or out of office, are entitled to this measure of protection to their good fame.

It will be observed that Mr. Welsh in this, as in his other accusations, has not only stated his charges, but has also furnished us with a portion of the facts or evidence relied upon to sustain them; and we submit that, by a fair and well-known rule of construction, it is reasonable to infer that herein we have furnished, if not all at least the strongest, evidence in the possession of the party filing the charges.

Mr. Welsh also directs our attention to the inferences that ought to be drawn from the facts furnished. Thus, in reference to the charge we are now considering, having arrived at the conclusion that there was a contradiction in the statements made by Smith in regard to the cancellation of the Clarke contract, he charges that Smith must have seen Wilder before sending the telegram to Clarke in regard to the withdrawal of assent by the Indians, and that, of course, this action was corruptly instigated by Wilder.

The commission have, as requested by Mr. Welsh, made a thorough investigation of this branch of the case, the result of which, as shown by the evidence, is that Smith never knew of the Wilder bid or his desire to purchase this timber, until the mail from Washington, containing the letter of Commissioner Walker, reached Smith at Brainard, on the 14th or 15th of October, the telegram having been sent to Clarke from Aiken before Smith left that place for Brainard on the evening of the 14th. It is also shown that Mr. Wilder, who is proved by abundant and satisfactory testimony to be a man of high character and responsibility, never saw Smith, or had any communication with him, until they met at Brainard on Smith's return from the Mille Lac payment; at which time, on being asked by Wilder if he had any communication from Washington in reference to his proposition, Smith replied that he had received at that place a letter from the Commissioner of Indian Affairs on the subject, but had not been able to give the matter any attention, and could not therefore take any action at that time. And this was all that transpired, and that was the first meeting of these two men, who are shown to have been strangers; nor had they any other or further interview in relation to this matter until they met at the Commissioner's office in Washington.

The agency of the respondent in the arrangement with Wilder, as shown by all the testimony, was therefore confined to what was done at the Indian Office in connection with Commissioner Walker and General Cowen as Assistant Secretary of the Interior, and was in substance as follows:

After the preliminaries were settled in regard to the bid made by Wilder for the White Oak Point timber, embraced in the agreement of Clarke, and the contract was about to be completed with Wilder, Commissioner Walker asked if the other Indians interested in the Leech Lake reservation would not be dissatisfied as they would be getting no money? Mr. Smith answered he had no doubt that they would. Whereupon, the Commissioner asked Wilder to make a bid for all the timber on the whole reservation, which was finally done, and the contract completed at Washington in the presence, and with the approbation, of Commissioner Walker, the Assistant Secretary of the Interior, (the Secretary himself being out of town,) and Agent Smith. At this interview Mr. Smith related, in answer to the inquiries of the Commissioner, the substance of the information he had in reference to this timber and the facilities for driving it to market; and among other things stated that it frequently happened that the ice on Leech Lake did not

break up until the middle of May ; that parties who had a year previously bid \$2.50 per thousand for selections of pine, to be made by them of the best eighty-acre tracts, had refused to complete their contracts ; and finally gave it as his opinion that the \$1.15 for the timber of the whole reservation was better than \$1.60 for that at White Oak Point.

The respondent undoubtedly believed this contract a favorable one for the Indians, all things considered, as he now insists in his testimony before the commission.

We suppose it probable that this opinion of the agent had an influence upon the mind of the Commissioner as to the reasonableness of the price ; but the contract, with this exception, seems to have been a project of the Commissioner's own conception, and was entered into, on consultation with Assistant Secretary Cowen, upon his own judgment.

It seems to us, therefore, that there can be no reasonable ground for claiming that Agent Smith has been guilty of any wrong or even error of judgment here, unless his opinion of the value of the timber was erroneous. And this brings us to an examination of the question, was the price agreed to be paid by Wilder a reasonable one ? In this connection it must be remembered that this is a large contract, some of the witnesses estimating the quantity of the timber at over 200,000,000 of feet, and that the payments were \$10,000 in advance, with \$20,000 a year afterward. It is also to be observed that the value of pine timber in Minnesota depends upon two principal considerations : first, its quality ; and second, its location with reference to the expense in getting it to market.

The best timber is that which is suitable for the manufacture of the higher grades of pine lumber, which are very scarce and dear, selling as high as \$15 per thousand feet, while common only brings \$10 to \$11.

As to facilities for getting to market, the best locations are on the Mississippi and such of its tributaries as are suitable for driving the logs.

The timber embraced in the Wilder contract is largely of the Norway variety of pine, and so situated as to make the driving difficult and expensive.

The testimony shows that while good timber, favorably located, is worth \$2 to \$3 per thousand, and even more, the inferior grades, or those with a large proportion of Norway, and unfavorably located, can be had at \$1 per thousand, or less.

Mr. Welsh, in a pamphlet lately printed and sent to us from Philadelphia, with his answer to our request to appear before us as a witness, says, that a commission, of which one of our number was a member, reported the value of certain pine timber in Minnesota to be \$2.50 to \$3 per thousand ; and then draws the inference that this timber ought to be as valuable, while the fact is, that most of the pine in the case referred to was equal in quality and location to the best in Minnesota ; and the report will show, that the testimony placed the value of that portion situated nearest to Leech Lake at from \$2 to \$3 *per acre*.

In fact, the commission to which Mr. Welsh refers, puts the value of pine lands embraced in the report, estimating them by the prices realized by the Government from sales in open market, at only \$2.50 *per acre*. If the pine included in the Wilder contract was estimated by the same rule, the price agreed to be paid would be found to be an exceedingly liberal one.

We now refer briefly to the testimony of a few of the witnesses examined upon this branch of the investigation.

Mahlon Black, who has been a surveyor, more or less engaged as an explorer of pine-lands since 1854, and has made an examination of the timber on this reservation with a view to its purchase, as late as 1871. This witness estimates the quantity of timber included in the contract at 150,000,000 feet or more; and after describing its quality, and the character of the lakes and rivers for driving the logs, gives us the opinion that the whole of this timber, upon the terms and conditions mentioned in the Wilder contract, would not be worth more than \$1.10 per thousand feet.

T. B. Walker, a lumberman, surveyor and explorer, who has been through this timber, and has had experience in getting logs through Pokegama Lake, &c., says the timber at White Oak Point will cost 75 cents per thousand less, to get it to market, than that about Leech Lake, and would, all things considered, be worth 75 cents per thousand more than the whole timber embraced in the Wilder contract. This witness, who has been more extensively engaged for the last six or eight years in exploring pine-lands than any man in the State, gives it as his opinion that the Wilder contract, if carried out in good faith, is as good as could be obtained from lumbermen in Minnesota.

Wm. P. Allen, another surveyor, who has been exploring over this reservation, gives the same opinion as to the contract being a favorable one for the Indians.

Wm. P. Ankeney, a large manufacturer of pine lumber, and a gentleman of extensive experience and wide observation in this business, concludes his testimony in regard to this contract by saying, "It might pay, or it might not; I should not think of taking it without there was money in it. There is always a large expense in a new country like Leech Lake. I have had considerable experience in new countries. Those that come after, of course receive the benefit."

James Whitehead, now a lumberman of Minneapolis, and who resided at Leech Lake from 1857 to 1867, and from 1867 to 1871 at White Oak Point, says that he "would not be willing to do better than the Wilder contract, and don't think I should like to take the contract off Wilder's hands at the present time."

N. P. Clarke, a lumberman of Saint Cloud, who has been at Leech Lake and down through that lake, and Leech Lake River, the route this timber would have to be driven to the Mississippi to market, states that there would be a dollar per thousand in favor of the Oak Point timber, on account of getting it to the market. He also thinks the price paid by Wilder a fair one for the timber, and the contracts advantageous to the Indians. This witness also testifies that he has pine as good and as favorably located as that embraced in the Wilder contract in the same part of the State, requiring to be driven the same route to market, which he offers for sale at \$1 per thousand feet.

Nearly all the witnesses testify that there is a liability to have this timber delayed until the second year in getting it out through Leech and Mud Lakes; and it is agreed by all that no timber has yet been driven from this Territory, and therefore there is, as Mr. Ankeney says, a good deal of uncertainty about the business on this account, as well as the difficulty of getting and keeping supplies there, on account of the depredations of the Indians. And the testimony shows that as this is a new country and subject to Indian depredations, a considerable allowance should be made for losses that may be anticipated from these causes.

There is, indeed, no witness, who pretends to have any knowledge or experience in handling timber, whose testimony differs from this view,

except that of F. P. Clarke, whose evidence, as recorded, we think will carry very little weight, and as heard in connection with the manner and appearance of the witness would be entitled to still less.

The testimony, as a whole, with the explanations it furnishes as to the character of this timber being between one-third and one-half Norway, and a large portion requiring to be floated through lakes that are large and subject to storms, where the logs have to be formed into rafts and towed through these lakes with steamboats, then the rafts broken up to drive the logs in Leech Lake River, which is a crooked stream requiring to be boomed to keep the logs out of the "pockets," not only shows that there was here no such inadequacy of price as to indicate any fraudulent purpose in those who participated in the transaction, but does on the contrary, as we think, clearly establish the fact that this was, under all the circumstances, as fair and favorable a contract for the Indians as could have been secured then, or any time since, from any responsible dealer. By the letter of the honorable Secretary of the Interior we are informed that it has been charged that a large portion of the timber was by the terms of this contract given away, and we learn that the same charge was made in the newspapers, and perhaps by Mr. Welsh, some time before the investigation was ordered: and it appears to have been based upon a false construction of that part of the agreement which provides that Wilder shall not be required to take or pay for trees under 14 inches in diameter, at 24 feet from the ground. From this the extraordinary inference seems to have been drawn, that such timber might be cut and taken away without being paid for. But this construction is not insisted upon in the charges filed by Mr. Welsh, and certainly cannot be by any lawyer, nor was it, in fact, ever thought of by practical lumbermen, as the testimony shows.

Upon the whole case, therefore, after the most diligent investigation of all the circumstances, including the correspondence and papers, and a careful and thorough examination of witnesses most likely to be informed in regard to the facts connected with the transaction, the commission is of the opinion that no fraud was practiced in making this contract, either by Mr. Smith or Mr. Wilder; and that, so far as we have been able to see, the agreement is in all respects a fair one, and will, if honestly carried out, prove highly advantageous to the Indians.

In connection with this charge, it may be proper to notice a statement made by Mr. Welsh, in the pamphlet elsewhere referred to, to the effect that Ex-Commissioner Walker has written him that he (General Walker) has no recollection of being informed before the Wilder contract, that the Indians at White Oak Point had withdrawn their assent to the agreement with Clarke. In answer to this it may be stated, that a letter from Agent Smith, written from White Earth, of the date of October 25, 1872, and filed in the Indian Office on the 2d November, six days before the date of the Wilder contract, gives the Commissioner full information in regard to this, and also states that the same matter had been communicated by Mr. Smith to Mr. Clarke and Mr. Wilder. This letter, a copy of which is hereto attached, (the original being on file in the Department,) fully corroborates the statement of Mr. Smith, and shows that the recollection of General Walker is at fault, which may well be accounted for by the large amount of business that was daily passing through that office.

The sixth charge of Mr. Welsh is that the respondent wrongfully and fraudulently, on two or more occasions, endeavored to induce Agent S. N. Clarke to cancel a contract made with Rust for the sale of certain timber in Wisconsin. This Mr. Clarke was, at the time our commission

commenced its session at St. Paul, in a hospital, and left without our knowledge. We accidentally learned through Mr. W. B. Dean, whose testimony is here reported, that Mr. Clarke had gone to Columbus, Ohio, where, after considerable difficulty, the commission succeeded in finding him and obtaining his deposition, from which it will be seen that he squarely denies the charge here made by Mr. Welsh.

Mr. H. M. Rice, the other witness to whom we are referred, as will hereafter be seen, refused to appear before the commission to testify. In this, as in the other charges, Mr. Welsh directs the attention of the commission to the evidence relied upon to sustain it.

A letter written by Mr. Wilder to Agent Clarke, under date of December 6, 1872, says: "I forwarded you a few days since, through Major E. P. Smith, my proposition. I now, at Major Smith's suggestion, send a contract signed by myself." Now, unless Mr. Welsh had the fact firmly settled in his mind that both Wilder and Smith were unprincipled knaves, availing themselves of every opportunity to unite their efforts in schemes to defraud the Indians, and that therefore he had only to prove concert of action to establish the fraud, we cannot understand how he should get it into his head that these extracts proved, or tended to prove, any wrong against Mr. Smith.

We must remember, in this connection, that Mr. Welsh knew, before he filed these charges, that this agreement to sell timber to Rusk, which Smith endeavored to stop, was believed to be at a greatly inadequate price, say, less than one-half its value. He also knew that Mr. Smith *claimed* that this was his reason for attempting to prevent the execution of the contract; and that action on this agreement was finally delayed on a telegram sent to the Secretary of the Interior, by a party whose integrity as well as zeal in defense of the rights of the Indians Mr. Welsh will hardly venture to call in question. The price proposed in the agreement Mr. Smith is blamed for attempting to cancel was \$50,000; and Rusk, in consequence of the telegram sent to Washington, (the contract having been signed by Clarke and forwarded for approval,) was finally brought up to the payment of \$125,000 for the same timber, the time for cutting the timber and the payment of the additional \$75,000 being extended. And this amended contract with the additional \$75,000, awarding the pine *to the same party*, Mr. Smith recommended to the approval of the Department, as securing a clear gain for the benefit of the Indians of the additional sum, without prejudice to their interests, as appears by his indorsement of a letter of S. N. Clarke to the Assistant Secretary of the Interior, of the date of March 17, 1873.

It is strange that Mr. Welsh could not see that Mr. Smith, as a member of the Board of the American Missionary Society, (to whose charge the Indians owning this timber were assigned,) if he believed their property was being sacrificed, should honestly interfere to stop the sale, and that for this purpose, an application to Mr. Wilder, or any other responsible party to make a better bid, would be the most reasonable and natural thing in the world.

It would seem from the following letter from Mr. Welsh, addressed to the Assistant Secretary of the Interior, in reference to this contract, that he himself was in full sympathy with the effort to delay it, until a better price could be secured, and that the plan adopted in the supplemental contract, of allowing further time for cutting and removing the timber, was fully approved by him:

PHILADELPHIA, February 1, 1873.

DEAR GENERAL: If you think the Department is authorized to make the contract, and

that on the whole it is wise, that scandal may be avoided, do hold out for \$20,000 a year for five years. This is the only safe way, as the timber near the water-courses is the most valuable, and may be cut off soon.

A guarantee often fails in the hour of need. The sale at \$1 per thousand is cheap, and although payments are to be made in five years, yet ten may be allowed to take the timber; then the most difficult of access will be taken, instead of defaulting in the last payments.

We must do what we can for the Indians.

Yours, sincerely,

WM. WELSH.

General B. R. COWEN.

The facts thus detailed in evidence not only fail to establish the charge here preferred, but render it difficult to understand how Mr. Welsh could have been led into the suspicion that the respondent had been guilty of any wrong in connection with this matter.

It will be seen that Mr. Smith testifies that he had a conversation with Mr. H. M. Rice, (to whom Mr. Welsh refers us in connection with this charge,) and mentioned to him that the proposed sale was at a grossly inadequate price; to which Mr. Rice answered that this made no difference; that \$50,000 was as good as \$100,000 to the Indians, as they would squander it in any event.

This brings us to the consideration of the seventh and last charge, which is, that Mr. Smith wrongfully and fraudulently concerted with Gen. C. H. Howard, Rev. E. Williams, S. N. Clarke, and D. A. Simmons, (of Connecticut,) at Chicago, in March or April, 1873, for the sale to Simmons of a large body of pine timber on the Lac de Flambeau reservation in Wisconsin. Clarke, Howard, and Williams, it is added, can testify that Smith not only united in the negotiation, dictating the terms of the contract, but also gave Clarke reasons that he might assign for that fraudulent contract, and "that Commissioner Smith will testify (as he did to me two days since) that he endeavored to get this contract approved after he became Commissioner of Indian Affairs, and that he was only hindered by Congressmen from Wisconsin, who opposed the sale."

We are also informed that "the parties who concerted this fraudulent sale managed to keep it a profound secret until Agent Clarke divulged it, because of conscientious convictions of the wrong into which he had been betrayed by others."

The Commission has succeeded in getting all the testimony of all the witnesses here mentioned as having knowledge of this transaction, except that of Mr. Rice, who, as before stated, refused to aid us in the investigation of this alleged fraudulent scheme to wrong the Indians.

The respondent swears that, as he was passing through Chicago, the Rev. Mr. Williams introduced Simmons to him, and said that he (Simmons) desired to purchase some pine located within Mr. Clarke's agency. Mr. Williams is pastor of the Forty-seventh street Congregational church, Chicago, and a member, with Mr. Smith, of the American Board of Missions of that denomination. Simmons told Smith he had made an offer for the pine of a certain sum, and all the profits above such sum to be divided between him (Simmons) and the Indians; the cutting to run through a term of years.

In answer to this, Smith told Simmons and Clarke, who were together, that no such contract could be made; that the Government could not think of entering into such an arrangement, and that it would be idle, therefore, to send such contract to Washington.

Smith, as he now supposes, then suggested a proper form of contract, by which the sale might be made, if it were approved by the Government. That he went directly from Chicago to Minnesota, where

he learned of his appointment as Commissioner of Indian Affairs; that after he got to Washington, the matter was brought to his attention again, either by Simmons, or C. H. Howard for him, and he declined having anything to do with it, not wishing to take the responsibility of selling pine in Wisconsin, except by public proposals and advertisement. The papers, he thinks, were withdrawn, because no agreement had been completed.

In all material points, this statement is corroborated by the testimony of Howard, Williams, and Simmons, who detail the circumstances connected with the transaction in such a way as to leave no room to doubt the fact that Mr. Smith had no connection with the matter, other than that he was consulted by the parties, as he casually met them in Chicago, on account of his interest in the Indians, and information in relation to such transactions; that the papers were taken to Washington after he became Commissioner, by General Howard on behalf of Simmons, for approval, to which application the Commissioner replied that this could not be done, as, on consultation with the Secretary of the Interior, it had been determined to sell no pine in Wisconsin without advertisement and proposals.

It appears that he did not examine these papers, and that the same were taken away by General Howard, and returned to Simmons as he had directed.

These witnesses all swear that they had no knowledge of anything wrong or improper in the proposed contract, or of any purpose on the part of any one to defraud the Indians in connection with the same. When to this is added the positive testimony of S. N. Clarke, that he had no knowledge or suspicion of any conspiracy by these parties, or any purpose by either of them, to wrong the Indians, it is hardly necessary to add that the commission find the respondent entirely innocent of the charge here made.

In concluding this summing-up of the result of our investigation, we deem it but an act of sheer justice to the accused, to announce what is the unanimous opinion of the commission in reference to the same, to wit, that we are not only satisfied that in regard to the matters alleged in these charges he has been guilty of no wrong, but that, on the contrary, the testimony shows he has as to all things connected therewith been actuated by the purest motives, and the most commendable zeal for the promotion of the welfare of the Indians.

We further observe that while we have been liberal in allowing time for presenting charges, and, as was publicly announced, not requiring technicality of form, it was, for obvious reasons, determined to confine the investigation to charges presented in tangible form to the commission by parties professing their willingness to be responsible for them.

Nor has any attention been paid to allegations made by Mr. Welsh, as to other matters since the filing of these charges. As he had full opportunity to make complaint as to all matters requiring investigation within his knowledge, it is to be presumed that he furnished us with all the charges he had any reason to suppose could be sustained.

There remains to be considered the duty imposed by the last instruction of the Secretary of the Interior, to wit: to inquire into the authorship of the charges and ascertain, if possible, the reasons actuating the party or parties who made or caused the complaints to be made.

As already observed, the accusations, together with papers and documents, copies of which had been furnished to Mr. Welsh, were first published in a Saint Paul newspaper, whose proprietor was represented

before the commission by the same attorneys that appeared for Mr. Welsh.

Mr. H. M. Rice, of Saint Paul, as already shown, had been referred to by Mr. Welsh as possessed of papers and other information material to the investigation, in such manner as to indicate that these parties had probably been in consultation in reference to these charges. And, as to Mr. Rice, we may observe that the letter written by him to the commission, stating his reasons for declining to appear as a witness, would seem to indicate that he regarded himself as in some sense responsible for these charges, and deeply interested in the result of their investigation.

Among other things, this gentleman volunteers to inform us "that, in order to bring out the whole truth, or so much thereof as will clearly reflect the true state of the case, many unwilling witnesses will have to be examined, * * and that the whole testimony required to elucidate the true state of facts can only be brought out by a commission having full power and authority to compel the attendance of witnesses and the production of papers, and can give ample time to those who prefer the charges to procure the required testimony."

What particular interest this gentleman had in connection with the making of these charges, we do not know, nor does he in this remarkable communication disclose why he should have any solicitude in the matter further than that his own testimony should be properly taken and recorded. This he knew would be done, as our proceedings were open to the public, and the reporters for the papers of the city were present each day, where all the testimony was taken in writing by competent and sworn officers. He also knew that the important documents of which he speaks would, when introduced in evidence, not only be filed and carefully preserved, but published at large in these newspapers. It is, therefore, obvious that Mr. Rice had some interest in this matter beyond that of an ordinary witness. What could be the nature of this interest, or the considerations that should induce him to withhold from this Department of the Government testimony which he claims to be so material in the investigation of grave charges against a subordinate officer, we do not undertake to determine.

This communication is written but a day or two after that sent us by the counsel of Messrs. Hall and Welsh, after making application for time to prefer their charges and make preparation for their hearing, and delaying the commission for so many days for these purposes; and finally declining, for the reason alleged in the communication by Mr. Rice, to aid us in the prosecution of the investigation.

We cannot, in either case, by the utmost stretch of charitable judgment, conceive it possible that these parties did not know that as full and ample opportunity would be allowed them to present their case and procure the attendance of witnesses and production of papers, as they could possibly expect from the congressional committee, which they profess to desire. They, and their lawyers also, know that the method of the investigation here adopted by the honorable Secretary of the Interior is substantially the same as that which has so long been practiced, and found most efficient and satisfactory in proceedings in our courts, viz: the reference of cases to masters or referees, with instructions to report the testimony together with their conclusions upon the same.

The witnesses examined by the commission, as will be seen, are numerous, and reside in different parts of the United States, from Connecticut to Minnesota, and although many of these gentlemen had no

connection whatever with, or interest in, the transactions on which the charges are based, we have the satisfaction of stating that not a single witness has objected to obeying our subpoenas, save Mr. Welsh and Mr. Rice, who seem to have been thus influential in originating these accusations, and profess to be so familiar with the facts connected with the same.

As to the production of letters and papers, these parties must have known that everything connected with the Government offices, of this character, was at our disposal. Indeed, the testimony shows that Mr. Welsh, himself, had the full run of all these offices, and that the clerks at the Department had been directed not only by the Commissioner of Indian Affairs, but by the Secretary and the Assistant Secretary of the Interior, to furnish copies of any documents or papers Mr. Welsh might desire.

Why these gentlemen, if their object was only to secure a fair and full investigation, to the end that justice should be done to all parties, should in answer to a proper and civil request from a commission honestly endeavoring to discharge a duty under the authority of the Government, volunteer the statement that they were in possession of material and important documents, and could give names of important witnesses, &c., and at the same time refuse to give the commission the benefit of this testimony and information, impartial men will find it difficult to conjecture, unless it was intended by such intimation to create a prejudice in the public mind against the accused.

In answer to the communication sent to Mr. Welsh from this city, requesting his attendance here as a witness, he has replied by a letter hereto attached, inclosing a printed letter, with an address to the President of the United States, in which he has printed the letter above mentioned of his attorney's declining to prosecute the charges before the commission.

Supposing it possible that Mr. Welsh did not properly appreciate the construction that might be placed upon these documents, and in order to afford him every facility to present the testimony he professed to have to the commission, it was determined that two of our number should call upon him at Philadelphia. At an interview which ensued, the desire of the commission to have the benefit of the material and important documents and other evidence mentioned in this printed letter, and the propriety of his furnishing it, was urged upon Mr. Welsh; and more especially was it urged that he could not fairly or justly withhold evidence which, in his letter to us, he insisted would, if placed in our possession, compel us to "criminate Agent Smith." But we regret to say that Mr. Welsh still declined, and seemed incapable of appreciating the gross injustice he was doing by this wholesale allegation of crime, while refusing to furnish the evidence upon which it is based, so that the accused might have the opportunity of meeting it, and the Department be enabled, if the accusation was supported, to deal with the criminal as he deserved.

But the sending broadcast over the country of these charges, not only against Mr. Smith, but other officials, in regard to whom he may entertain a suspicion, without regard to standing or character, seems to be indulged in by Mr. Welsh with as little reluctance or hesitation as if he were circulating the ordinary incidents connected with the public service.

Thus, in the printed letter above mentioned, which he seems to be circulating in pamphlet form, Mr. Welsh publishes the letter of his attorneys to this commission, at Saint Paul, already referred to, but omits

the obvious act of justice of allowing the answer of the commission to appear with it.

In this letter, written by men appearing as attorneys of Welsh, and by him now indorsed by its publication, the statement is made that its authors, from copies of letters and papers before them, were of the opinion that a thorough investigation by a commission, clothed with necessary powers, "will reflect unfavorably upon the official conduct of the secretary under whom you hold your appointment." And in the same pamphlet Mr. Welsh makes the uncalled for, unjustifiable, and false insinuation that the commission, as he infers from our answer to this letter of his attorneys, "are quite content with the examination of parties to the contract, and others like-minded, allowing the presence of the attorneys for the accused without having any one present to conduct the prosecution."

Now Mr. Welsh knows that after the counsel were admitted to appear in behalf of himself and Mr. Hall, at the commencement of the session of the commission, Judge Pahner was allowed to appear as counsel for the accused; and he knows further that the reason why no counsel appeared on behalf of the prosecution during the progress of the investigation, was because of the voluntary and unjustifiable withdrawal of his counsel from the case, as already mentioned; and he also knows, or should have known, before venturing to make such an accusation as this, that the commission had been diligent in the examination of all disinterested witnesses that they could ascertain had any knowledge of the matter under investigation.

To the above Mr. Welsh adds the cruel imputation that he stands ready to make good the charges made against Agent Smith or openly to retract them, "and also to add numerous charges against his conduct as Commissioner of Indian Affairs." Such aspersions, emanating from a man less careless in his method of handling facts, would be adjudged atrocious.

But we have thought it doubtful whether, under the circumstances detailed in the evidence, as they illustrate Mr. Welsh's mental peculiarities, his conduct should be thus seriously regarded; and yet, it seems to us that he and his friends should reflect that, while the general prevalence of this inexcusable practice may, in the judgment of the men who mingle in the strifes of this busy life, render it comparatively harmless, there may be persons connected with parties against whom these shafts are aimed, with sensibilities so tender as to be unable to withstand their poison.

This man is ever profuse in professions of confidence in the President of the United States. Then why, if his object be in good faith to bring about a reformation in the service, and to secure the dismissal of dishonest officials, does he not go to the President, and lay before him the documents which are claimed to be sufficient to procure the conviction of these officials; or, why does he not go to the Secretary at the head of the proper Department, to whom he has been equally profuse in professions, and request that he shall examine the documents upon which he bases these accusations? He certainly must know, if his testimony is of the conclusive character claimed, the dismissal of the officials accused would be instantly ordered. Why this ostentatious publication of a letter containing, as has been shown, such reckless aspersions and false insinuations?

Among the many strange and unaccountable assumptions of Mr. Welsh is that of insisting that such a commission as this, acting under the appointment of the head of a Department of the Government, and having

the aid of all the officers connected with it, with access to all the public documents connected with the official transactions to be investigated; having the marshal to execute process, and furnished with the means for defraying expenses of witnesses, and proper officers to take the testimony, must, in the nature of things, be utterly unable to procure proof of the guilt of the accused; while he, without any official aid or authority whatever, has been able to accomplish all this, and has now in his possession the testimony that will not only authorize, but compel conviction.

We do not deem it necessary to add anything further in reference to the origin of these charges or the motives of those making them, the circumstances being so fully detailed by the evidence.

The accusers have declined the opportunity, offered in the most courteous manner, and in the best of faith, to substantiate their charges. And yet, they continue the utterance of their complaints, coupled with insinuations that a commission with but a single member having any, and he but a short acquaintance with Mr. Smith, while three are strangers to Mr. Wilder, and all being unacquainted with the other parties connected with the contracts mentioned, must be indisposed to do justice to the prosecution.

When this commission was appointed its members had no personal acquaintance with Mr. Welsh; they had heard of him as a citizen of Philadelphia, distinguished for liberal contributions to charitable objects. They have, therefore, in the observations submitted in regard to his conduct in connection with the subject-matter of this report, confined themselves to what was believed to be strictly legitimate in view of the testimony, and necessary in the proper discharge of a painful duty.

All which is respectfully submitted.

N. J. TURNEY.
JAMES SMITH, JR.
W. K. JENNINGS.
T. C. JONES.

Hon. C. DELANO,
Secretary of the Interior, Washington, D. C.

APPENDIX.

LIST OF PAPERS ACCOMPANYING THE REPORT OF THE COMMISSION.

- A.—Letter of the Commissioner of Indian Affairs requesting an investigation.
 - B.—Letter of the Secretary of the Interior appointing the commission.
 - C.—Letter of the Commissioner of Indian Affairs requesting an enlargement of the powers of the commission.
 - D.—Letter of the Secretary of the Interior enlarging the powers of the commission.
 - E.—Journal of the commission.
 - F.—Testimony taken by the commission.
 - G.—Depositions.
 - H.—The Wilder contract.
 - I.—Letter of Hon. Francis A. Walker.
 - K.—Letter of E. P. Smith, Indian Agent, to Commissioner of Indian Affairs.
 - J.—Letter of William Welsh to the President. [This letter appears in the journal of the commission on page 37.]
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A.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS, *Washington, D. C., October 24, 1873.*

SIR: In November, 1872, acting under instructions from the Indian Office as agent for the Chippewas of Minnesota, I made a contract with A. H. Wilder, of Saint Paul, for the sale of the pine timber standing upon Leech Lake reservation. According to the terms of this contract, Mr. Wilder purchases all merchantable pine within three miles of driving streams at the rate of \$1.15 per thousand feet, actual scalage; payment to be made in sums of not less than \$20,000 per year, whether a sufficient amount of pine to realize that sum is cut annually or not. "Merchantable pine" is defined as being trees not less than 14 inches in diameter, 28 feet from the butt. No other than merchantable pine is to be cut.

The causes making the sale of this timber desirable and necessary for the best interests of the Indians had been frequently set forth by official reports, and particularly by the board of visitors for the years 1871 and 1872, who, according to treaty are sent annually to these Indians to inquire into their conditions and necessities.

There are seven bands of Indians, living at a distance of from one hundred to two hundred and fifty miles from each other, who have a property interest in this pine. Each of these bands is more or less under the control of a set of men who live upon Indian barter, and such share as they can get from them of Government benefit.

No contract could have been made, with the consent of these differ-

ent bands, that was not in accordance with the personal interest and wishes of these different sets of men. This fact would practically prevent any contract that would be advisable and beneficial to these Indians. For this reason it was deemed advisable that the Department, as the guardian of these Indians, should dispose of their property-right to the best advantage for them, without consulting them as to what would be the proper terms of the contract.

Unfortunately, before I had the opportunity to meet the Indians in council, and explain to them personally the action taken in their interest, I was relieved from my agency. But I took pains to have full information conveyed to them through my successor, Agent Douglass, at the earliest day after his appointment.

There have appeared certain statements regarding this transaction which seriously implicate my reputation as a Government official. And in addition to the importance ordinarily attached to newspaper comments or irresponsible correspondence, these reports seem to have awakened some interest, and perhaps some suspicion in the minds of persons whose judgment and good opinion are worthy of consideration.

In view of these facts, I respectfully request that the honorable Secretary of the Interior will make inquiry as to the facts in the case, and if deemed of sufficient importance, to appoint a commission to visit Minnesota, and make inquiry as to alleged impropriety of conduct on my part as Indian agent of the Chippewas in the matter of the sale of the pine timber on Leech Lake reservation.

Very respectfully, your obedient servant,

EDW'D P. SMITH,
Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

B.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., November 8, 1873.

SIR: On the 8th day of November, 1872, the present Commissioner of Indian Affairs, Hon. E. P. Smith, then agent for the Chippewa Indians of Minnesota, entered into a contract with A. H. Wilder, of St. Paul, Minn., for the sale to Wilder of certain pine timber on the Leech Lake Indian reservation, a copy of which contract is herewith transmitted.

Charges in public prints and by private individuals have been made to the effect that said contract was fraudulently consummated, and that the present Commissioner of Indian Affairs has some latent interest in it.

Connected with these charges is the allegation that the timber was sold at a greatly inadequate price, and that a large portion of it was actually given away.

The Commissioner has requested the Department to investigate the truth of these allegations, as well as the entire matter connected with said contract. I have therefore concluded to appoint a commission consisting of yourself, Thos. C. Jones, and Nelson J. Turney, of Ohio, and W. K. Jennings, of Pennsylvania.

The commission is requested to report at this Department, at the earliest day practicable, to be agreed upon by themselves, and proceed at once to make a full and through examination of the subject referred

to, and report the facts and their conclusions in writing as soon as convenient.

If in the course of the investigation the commission arrive at the conclusion that the charges have been made without sufficient cause, it will proceed to inquire into the authorship of the charges and ascertain, if possible, the reasons actuating the party or parties who made or caused the complaints to be made.

Your compensation will be \$8 per day, and actual expenses incurred during the time of your engagement.

The commission will select one of their number as chairman.

Very respectfully, your obedient servant,

C. DELANO, *Secretary.*

JAMES SMITH, Esq.,
St. Paul, Minn.

C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., November 15, 1873.

SIR: Referring to my communication of the 24th ultimo, relative to charges of fraudulent transactions on my part as Indian agent in the matter of contracting to cut timber on the Leech Lake reservation and suggesting the propriety of inquiry in the matter with a view to investigating my conduct, if found requisite, by a special commission, I have now further to state that recent charges have been made in a Saint Paul paper of other official misconduct, and to request that you will also instruct this commission to inquire into any matters touching my actions as Indian agent in Minnesota, concerning which any respectable man is found to make any complaint.

Very respectfully, your obedient servant,

EDWD. P. SMITH,
Commissioner.

HON. SECRETARY OF THE INTERIOR.

[Indorsement.]

DEPARTMENT OF THE INTERIOR,
November 19, 1873.

Respectfully referred for the consideration of the commission to investigate charges of improper conduct against Edward P. Smith, Chippewa Indian agent.

C. DELANO,
Secretary.

D.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., November 17, 1873.

GENTLEMEN: Referring to my several communications to you, under date of November 8, 1873, in which you were designated as a commis-

sion to investigate certain charges against Hon. Edward P. Smith, Commissioner of Indian Affairs, in relation to a contract made by him, with A. H. Wilder, for the sale of pine timber on the Leech Lake Indian reservation, I have the honor to inform you that I have just received from the Commissioner of Indian Affairs a letter dated the 15th instant, copy herewith inclosed, in which the Commissioner says:

I have now further to state that recent charges have been made in a Saint Paul paper of other official misconduct, and to request that you will also instruct the commission to inquire into any matters touching my actions as Indian agent in Minnesota, concerning which any respectable man is found to make any complaint.

I have now the honor to ask that the investigation thus requested by Mr. Smith be included within the power and duties of your commission, and that you make full and thorough investigation, as requested by the Commissioner, into all matters touching his official actions while Indian agent in Minnesota, concerning which any respectable man is found to make any complaint. The Saint Paul paper referred to is denominated the Saint Paul Dispatch.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

Messrs. N. J. TURNEY, THOMAS C. JONES, JAMES SMITH, and W. K. JENNINGS, *Commissioners, Washington, D. C.*

E.

JOURNAL OF COMMISSION.

Minutes of the proceedings of the commissioners appointed by the honorable Columbus Delano, Secretary of the Interior, to investigate charges against E. P. Smith.

And now, to wit, the 17th day of November, 1873, the above-mentioned commission, consisting of the Hon. N. J. Turney and Messrs. James Smith, jr., and W. K. Jennings, met at the office of the Assistant Secretary of the Interior, and after receiving commissions and instructions, and consulting together, adjourned to meet at the office of the said James Smith, jr., in Saint Paul, Minn., on or about the 27th or 28th instant.

And now, to wit, November 30, 1873, the commissioners above named met at the office of the said James Smith, jr., in Saint Paul, all the members being present, and, after consultation, agreed upon publishing in the daily papers of Saint Paul the following notice of the time and place of meeting:

NOTICE.

The commissioners appointed to investigate and report upon the truth or falsity of certain charges made against Edward P. Smith, late agent of the Chippewa Indians of Minnesota, relative to a sale of pine timber to A. H. Wilder, and other alleged misconduct, are instructed to make a full and thorough investigation in the premises, and to that end hereby give public notice that all persons cognizant of any facts material to such investigation are requested to appear and give testimony before said commission, which will meet at the office of James Smith, No. 76 Jackson street, Saint Paul, on Monday, December 1, 1873, and

continue its sessions from day to day during the week, and until such investigation should be concluded.

November 29, 1873.

NELSON J. TURNEY,
W. K. JENNINGS,
JAS. SMITH, JR.,
Commissioners.

The commission then adjourned till December 1, 1873, (Monday,) at 10 o'clock a. m.

And now, to wit, December 1, 1873, the commission met pursuant to adjournment at the office of James Smith, jr., esq. Present, all the members.

George L. Otis, esq., attorney at law, Saint Paul, came before the commission and asked leave to appear as attorney for H. P. Hall, esq., editor of the Saint Paul Dispatch newspaper, who desired to file charges and specifications against E. P. Smith, the accused.

The Hon. E. C. Palmer, also of Saint Paul, desired to be permitted to represent the said accused as his attorney.

Leave was granted to both gentlemen, and the commission then adjourned till the 3d instant, at 10 o'clock a. m., in order to give Mr. Otis time to prepare his charges and specifications, and at his request. Before adjournment a telegram was received from Secretary Delano announcing that Hon. T. C. Jones had been added to the commission.

And now, to wit, December 3, 1873, the commission met pursuant to adjournment, at the usual place. Present, all the members.

Hon. T. C. Jones appeared, with a commission from Secretary Delano, constituting him a member of the commission, and was admitted as a member of the board.

A formal organization was then effected by the election of Hon. N. J. Turney as chairman, and W. K. Jennings as secretary.

Hon. John M. Gilman asked leave to appear as associate counsel with Mr. Otis, and informed the commission, upon such leave being granted, that they also represented Mr. William Welsh, of Philadelphia, Pa., and that owing to the non-arrival of certain papers, which Mr. Welsh had notified them by telegraph had been forwarded from Philadelphia, they were not ready to proceed, and asked a further adjournment.

The commission granted his request, and instructed him to prepare charges as fully as possible by the next meeting, with the understanding that they should have leave to add, alter, or amend them at a subsequent time.

Adjourned till the 4th instant, at 10 o'clock a. m.

And now, to wit, December 4, 1873, the commission met pursuant to adjournment, at the usual place, all the members present.

A communication was received from Messrs. Otis and Gilman, attorneys for Messrs. Hall and Welsh, as follows:

SAINT PAUL, *December 4, 1873.*

GENTLEMEN: We are diligently at work upon the charges and specifications to be presented to your honorable board, in behalf of the accusing parties, for whom we have appeared, but find it will be impossible to get them in shape to present with proofs to-day. We are also waiting the arrival of papers and documents necessary for use in the investigation, and which we are advised are on the way by mail, and now think it will be impossible to present our charges and be ready with proofs before Monday next. In view of the very short notice of your first meeting, we trust you will grant us this indulgence.

Yours, respectfully,

J. M. GILMAN.
GEO. L. OTIS.

The Hon. COMMISSIONERS to investigate charges, &c., against Hon. E. P. Smith.

This paper was marked Exhibit A, and filed.

Mr. Otis being sent for, appeared in person, and at the request of the commission stated, in brief, the substance of the charges that they intended to present.

The commission resolved to adjourn from day to day to enable counsel for Messrs Hall and Welsh to proceed earlier than Monday, if they could get ready.

Adjourned till the 5th inst, (Friday,) at 10 a. m.

And now, to wit, Friday, December 5, 1873, the commission met, pursuant to adjournment, and counsel for Messrs Hall and Welsh, not being ready, adjourned till Saturday, the 6th instant, at 10 o'clock a. m.

And now, to wit, December 6, 1873, (Saturday,) the commission met, pursuant to adjournment, and counsel still not being ready, adjourned till Monday, the 8th instant, at 10 o'clock a. m.

And now, to wit, Monday, December 8, 1873, the commission met at the appointed time, and at the usual place, all the members being present: Judge Palmer appearing on behalf of the accused. The following communication was received:

To the Honorable Nelson J. Turney and others, &c. :

Since informing you that we should prepare and present charges and specifications against Edward P. Smith, touching his official actions as Indian agent in Minnesota, we have received and examined various letters and documents which have been forwarded here by Mr. William Welsh, of the city of Philadelphia, for whom we appear as attorneys, and have prepared such specifications as the information laid before us would seem to justify; but many of the charges can only be substantiated by the presence of witnesses who are scattered over, not only this State, but other States, and cannot be procured on the short notice given by you for the investigation. A number of persons have become interested in the Wilder, Merriam and Rush contracts, and the united influence of such interested parties is brought to bear to suppress the facts in connection with said contracts; and volunteer witnesses in support of the charges cannot be hoped for. There are many persons, as we have reason to believe, in this and other States, who could give material testimony, but who will not do so, unless compelled by legal process. From many prudential considerations they are unwilling to come into collision with Commissioner Smith, the Indian Department, and those interested parties who wish to uphold the contracts.

We are informed, also, that some important papers in connection with this inquiry have disappeared from the Indian Bureau at Washington since Mr. Smith became Commissioner of Indian Affairs, and that the facts relating to the matter can only be shown by witnesses residing in the Eastern States.

We have, therefore, been considering the authority by which you are appointed, and your powers to enforce the attendance of witnesses, to administer oaths, and compel the production of papers, &c., for without these powers the investigation can result in little more than a farce; and we are surprised to find that you possess none of these very essential powers for this investigation. We find no authority for your appointment to investigate the conduct of Commissioner Smith, except the general power that any bureau officer may possess to order an informal inquiry into the conduct of one of his subordinates. You have no power to subpoena a witness, or in any way compel his attendance, or compel the production of a paper, or to administer an oath, or compel a witness to testify if present, or, if testifying, to answer any question that he might not choose to answer. Under these circumstances you can gain no information except such as is volunteered. Mr. Welsh has informed us since your appointment, that Secretary Delano himself admits that you have not any of these powers. We must, therefore, in view of the want of jurisdiction, and the necessary powers on your part in the premises, respectfully decline to appear before you in the matter.

We may further remark that, from copies of letters and papers before us, we are of the opinion that a thorough investigation by a commission clothed with these necessary powers will reflect unfavorably upon the official conduct of Secretary Delano, from whom you hold your appointment.

Certain it is that nothing but a commission authorized by law, and empowered to compel the attendance of witnesses and the production of papers, giving ample notice of the time of their meeting, can bring out the truth, or the semblance of it, in connection with the manage-

ment of Indian affairs in this State and Wisconsin under Agent Smith. Before such a commission we are at all times ready to appear and prosecute our charges.

JNO. M. GILMAN,

GEO. L. OTIS,

Attorneys for Wm. Welsh and Harlan S. Hall.

ST. PAUL, December 8, 1873.

This paper was marked Exhibit B. and filed.

The commission then took a recess until 2 o'clock in the afternoon to consult as to what course to pursue in regard to the communication above quoted. At which time they re-assembled, and the Hon. T. C. Jones read the following as the unanimous opinion of the commission :

We are greatly surprised by this communication. This commission was organized on the 17th of November, 1873. On the 22d day of the same month, notice of the fact, and the duties to be performed, was served on Mr. Hall ; and that the commission would meet to proceed with the investigation at the office of James Smith, jr., Saint Paul, on the 28th. On the 1st of December, instant, Geo. L. Otis, esq., appeared before the commission and asked leave to file charges, on behalf of Mr. Hall, against E. P. Smith, and that he be allowed time for that purpose until Wednesday, the 3d instant, which was granted.

At the meeting on Wednesday, Mr. Gilman desired to be allowed to appear with Mr. Otis on behalf of Mr. Welsh, and that further time be allowed to prepare the formal accusation ; which the commission granted by taking another adjournment till the next day at 10 o'clock a. m., with the understanding that the investigation should then be commenced, the parties having leave to add further charges, if deemed necessary, when the papers expected from Mr. Welsh should have arrived.

On Thursday the commission received a note from counsel asking for further extension of time, for the reason that they could not properly prepare their charges until the arrival of papers from Philadelphia.

Mr. Otis afterward appearing, at the request of the commission, was informed that we were instructed to make a full, fair, and thorough investigation of any charges that any responsible party should prefer against the accused ; that the commission did not require the charges to be in technical form, as in proceedings upon indictments ; that only a statement of the substance of the matters alleged would be necessary.

Mr. Otis asking that a further adjournment should be had until this day, and assuring the commission that they were using due diligence in the preparation of the charges, an adjournment was ordered from day to day, with the understanding that time should be allowed as requested, unless counsel should be able to proceed with the case at an earlier day.

After all this delay, and with the explicit understanding that the investigation should now proceed, the learned counsel who represent parties making these charges inform us that they have been directing their attention to the powers possessed by this commission, and have ascertained that we have no authority to issue process or compel the attendance of witnesses, &c.

They also say that the parties interested in the contracts referred to in the charges are bringing their influence to bear to suppress the facts, so that volunteer witnesses in support of the same cannot be hoped for. In reference to the reasons here alleged for not proceeding with the investigation, we have to observe : That the facts in connection therewith appear to have been as well known to Mr. Welsh ten days ago as they are now ; and in regard to the extent of our powers, he admits that he had a consultation with the Secretary of the Interior in reference to the same, before the filing of his charges, and we can hardly conceive it possible that the matter was not understood by counsel.

As to the alleged inability to compel the attendance of witnesses, we believe that no inconvenience has been experienced by similar commissions heretofore ; and it will be remembered that we notified counsel that process would be issued for all witnesses that they might desire to subpoena ; that we would see that the same were served by the United States marshal, and that we supposed that arrangements could be made to pay all proper expenses. A proper officer was present to administer oaths and reduce all the testimony to writing.

And we have now to suggest whether, under these circumstances, the parties ought not to have proceeded with the investigation, as we were assured they would ; and whether it would not have been time enough to allege the inability of the commission to procure the attendance of witnesses and the production of papers material in the case, after an honest effort had been made in that direction. As to the difficulty of procuring papers, these gentlemen are lawyers, and therefore they know the danger of withholding documents, and the presumption arising therefrom against the party refusing to produce them, and should not have made this imputation until a refusal had followed the service of a proper notice.

And we have the same remark to make in regard to the intimation that parties interested in the contracts are interfering to prevent a full investigation.

We can hardly understand the meaning of this communication, taken in connection with the one addressed to us by Mr. Welsh, of the date of December 1, and received by us last Saturday, which will now be read.

“PHILADELPHIA, *December 1, 1873.*

“*To Messrs. Turney, Jennings, and James Smith, jr., commissioners :*

“DEAR SIRS : After receiving your telegram, I went to Washington to confer with the Secretary of the Interior, who asked me to write a letter, as it will be impossible for me to leave here without sacrificing interests of a public and charitable kind, far greater than those committed to your care. It is with the greatest reluctance and pain that I feel constrained to make the following charges against the conduct of Indian Commissioner E. P. Smith, while acting as agent for a portion of the Chippewa Indians.

[Here follow the charges preferred against Commissioner E. P. Smith, which will be found in the report.]

“As your commission desires to reach the truth, whether obtained equitably or legally, I have not thought it wise to put these charges in legal form. This is the first draught from dictation, and they could have been put much more strongly by the examination of papers in my possession. It is a very painful duty to me, as I had a stronger personal interest in the party charged with wrong-doing than either of you had.

“Yours, very respectfully,

“WM. WELSH.”

From this it seems that Mr. Welsh has preferred his charges, and desires the commission to proceed with the investigation. But the gentlemen who appear as counsel for him by a written communication have indicated a contrary purpose. They do not appear before us in person to explain this apparent contradiction.

In the absence of counsel we are left in doubt as to the purpose of Mr. Welsh in regard to the charges still on file with the commission. But, on consultation, we have concluded that we shall go on with the investigation impartially and fearlessly, and that we should hesitate to permit the withdrawal of these papers from the files if such request were formally made by Mr. Welsh.

We shall subpoena such witnesses as we believe are in possession of facts material to the inquiry, and shall be greatly obliged to any good citizen for any information which will aid us in this investigation.

At the conclusion of the remarks, Judge Palmer inquired as to whether he should still be permitted to represent Mr. Smith; and was informed by the commission that he should.

The commission then adjourned till Tuesday the 9th instant, at 10 o'clock a. m.

And now, to wit, Tuesday December 9, 1873, the commission met pursuant to adjournment, at the usual place. Present all the members.

A communication was received from R. N. McLaren, esq., United States marshal, marked exhibit D, and filed, in which he agreed to serve subpoenas, &c., for the commission.

By order of the commission, subpoenas were issued for the Hon. H. M. Rice and S. N. Clark, esq. The first one was returned “served,” marked exhibit E, and filed.

The Hon. E. C. Palmer, counsel for the accused, then read an answer on his behalf to the charges preferred by Mr. Welsh, as follows :

Before the Hon. Commissioners appointed to investigate charges against E. P. Smith :

To the charges made and filed by William Welsh, of Philadelphia, the said E. P. Smith responds and alleges as follows :

As to the charge and specification marked “First.” He admits that a contract was drawn up by F. P. Clarke for a comparatively small quantity of pine, say twenty to thirty-five million feet, lying along the Mississippi River, at about the date stated in said specification, but he avers that the same was so framed as to require the approval of the Commissioner of Indian Affairs, the Hon. F. A. Walker, and was duly forwarded to him for approval; that said contract was drawn up pursuant to previous general instructions of said commissioner, to sell pine upon this reservation, and after the consent of the Indians at Oak Point had been obtained to the sale of their pine. That said consent was not referred to in said contract because it was unnecessary, and because the Indians had already given their consent, as was known to said Clarke, and said contract could not become operative without the approval of said commissioner.

That due and timely notice was given of such intended sale, and several bids for said pine were made by parties who did not complain that the time was too short, nor was such complaint made by any one.

Second. The respondent admits that he sent the telegram set forth under this head, and alleges that his sole and only object in so doing was to notify said Clarke that said Indians

had withdrawn or repudiated their previous consent, and of the possible effect thereof, so that said Clarke might be put on his guard and saved from further loss and expense in making preparations to carry out said contract on his part; that on the evening of the same day on which said telegram was sent this respondent received a communication from said Commissioner, stating that said contract with said Clarke was not approved, and directing a contract to be made with A. H. Wilder at a higher price.

That up to this time this respondent had never seen said Wilder, and had had no communication with him of any kind, directly or indirectly, and did not know that any higher price for said pine had been offered by any one; that said Wilder's bid therefor had been made directly to said commissioner at Washington, and this respondent had no agency whatever in procuring the same to be made or accepted; and he denies that he has stated publicly or privately "that said Clarke's contract was cancelled *solely* because Wilder had made a higher offer," but that his own action in that regard was based upon what he supposed would be the effect of the withdrawal of consent by the Indians, as stated aforesaid, and his desire to save said Clarke from all possible harm in the premises. He admits that he has stated that said contract was cancelled because a higher bid had been received, but that said cancellation was the action of the Commissioner of Indian Affairs, and not of this respondent.

Third. As to this specification, the respondent says that he refers the legal and purely technical questions involved to the honorable commissioners and the proper law officers of the Government, but he alleges that since the year 1854 it has been the constant practice and custom of the Indian Department to regard the timber, coal, and other marketable productions growing upon or found in the Indian reservations as personal property, disposable under the direction and authority of the Department, and for the sole use and benefit of the Indians; that contracts for the sale of pine timber have been constantly made since said year 1854, under the sanction of every Commissioner of Indian Affairs from that time to this, and with the approval, express or implied, of every Secretary of the Interior, and no question of the right or power to make such contracts, so far as this respondent is aware, has ever been raised until now; That this respondent, while Indian agent in Minnesota, acted under the express direction and authority of his superior officer, the said Commissioner, in making this class of contracts, and without suspicion that any charge of illegality could be made; and he submits that it is not just to him, a subordinate officer, to hold him responsible in the premises for matter not impugning his personal or official integrity; and in this respect he courts the freest and fullest investigation.

Fourth. As to this specification, the respondent alleges that the same is wholly erroneous and false. That the Merriam contract was approved by said Commissioner while this respondent was in Washington, and without notice to him that any direction to make a contract with said N. P. Clarke had been given. That said contract with Merriam was made in the usual way, and forwarded to Washington for approval by said Commissioner; and while this respondent was absent making his payments said N. P. Clarke put in a bid for the timber embraced in said contract, directly to the Commissioner, who, thereupon sent out the notice referred to in said specification.

That the same was never received by this respondent, nor the fact that it had been sent made known to him until long afterward; that said Clarke withdrew his bid prior to the approval of the contract with Merriam, all of which said Welsh knew, or could have known by inquiry at the Indian Department at Washington; yet he makes the charge without due inquiry as to its falsity, and thus gratifies private malice of other parties, and gives it greater emphasis by confounding F. P. Clarke with N. P. Clarke and so proclaiming "a double wrong."

Fifth. This respondent denies that he made any fraudulent contract on November 18, 1872, or at any time with A. H. Wilder, or at a price below the fair value of the timber embraced in said contract. He admits that he signed a contract for a large quantity of pine with said Wilder at the price of \$1.15 per "M" at the date named, but he alleges that said contract in all essential respects was made and the provisions thereof framed by the Commissioner of Indian Affairs, the Hon. F. A. Walker. That so far as this respondent was aware, and as he then believed and still believes, said contract is a fair one, and secures to the Indians on said reservation the full value of the timber to be cut thereon. He denies that he kept any fact or refusal of said Indians from the knowledge of the Commissioner, and alleges that he fully advised said Commissioner of all facts within his knowledge bearing upon the subject-matter of the said contract, and that said Commissioner acted in the premises only upon a full knowledge of all attainable and essential facts, and after a full discussion of all questions involved in such action.

This respondent alleges that he informed said commissioner that the Oak Point Indians, comprising about one-sixth of the Indians upon the whole reservation, and having property rights in the pine thereon, had first consented and then refused to sell their pine, as was the fact; and he alleges that it also was a fact that the great body of the Indians had not been consulted on the subject at the time said contract was made, but that not long thereafter a copy of said contract was sent to the agent in charge, with instructions to explain its provisions to the Indians and ask their approval thereof, which was done; and said Indians thereafter sent a delegation to this respondent at White Earth to inquire more particularly concerning said sale of their pine, which delegation, after receiving a full explanation thereof,

expressed themselves satisfied, as did also the Mississippi Chippewas at White Earth, who have property interests in said pine.

Sixth. The respondent denies that he ever at any time attempted wrongfully or fraudulently to induce the agent named in specification "sixth" to cancel the Rust contract, so called; and he alleges that his connection with the subject-matter of this charge and his conduct in the premises are as follows, and not otherwise:

In addition to being Indian agent in Minnesota, he was also supervising secretary of Indian missions in Minnesota and Wisconsin for the American Missionary Association, and as such had supervision over the matter in regard to which said Clark was Indian agent in Wisconsin, (not the Missouri Chippewas, as erroneously stated in said specification.)

That accidentally learning that said Clark had entered into a contract for the sale of the timber on the Court de Oreille reservation, at and for the price of \$50,000, and knowing, at the time that said price was far too low, and that higher and better bids could be obtained for such timber, and the interests of the Indians promoted thereby, he did ask said Clark to request the Department to delay proceedings under said contract, which was done, and such further proceedings had in the premises that an additional sum of \$75,000 was obtained for said timber, solely through the action and alleged "interference" of this respondent, and the interests of the Indians advanced and promoted to that extent.

Seventh. This respondent denies that he wrongfully or fraudulently concerted with the persons named in this specification, or with any other person or persons for the sale of pine timber (not land) on the Lac de Flambeau reservation, and that the facts in connection with said alleged transaction are as follows:

The operation of the act of Congress referred to in said specification was contingent upon the consent of said Indians to remove from said reservation; that they refused to remove, which refusal was given in open council and declared by Agent Clark, whereby said act of Congress became null and no longer binding upon the Department; that thereafter the respondent was asked to forward a bid for said timber upon terms embraced therein, which he at once stated would not be accepted by the Department, and he then briefly indicated to the said Simmons the form in which any such proposal should be cast; that respondent had no interest whatever in the matter beyond a desire to have the papers put in proper shape for the action of the Department; that the said Simmons was a total stranger to the respondent until introduced to him as a gentleman of the highest personal character by the Rev. E. F. Williams, pastor of the Congregational church at Chicago, and C. H. Howard, the district secretary of the American Missionary Association, at the same place; both gentlemen of the highest integrity and earnestly devoted to the Indian mission cause and the spiritual and temporal welfare of the Indians; that when this respondent became Commissioner, said matter had not been passed upon by the Department, and was brought before him for his official action; that so far from endeavoring to secure the approval of said contract, as charged in specification "seventh," he declined to take action thereon, and expressly refused to take any responsibility in the premises; that he does not know anything concerning the alleged action of Agent Clark in the premises, or of the alleged operations of his conscience, but avers that he had nothing to do with said Clark in concerting or concocting any fraudulent matter whatever, and emphatically denies that this respondent or the other gentlemen named, or either of them, had any improper motives or fraudulent designs in connection with said transaction, and he asks that said Williams, Howard, and Simmons, and Agent Clark be summoned before the honorable commissioners to give their testimony on the subject-matter of this charge; and that the said William Welsh be also requested to appear and give evidence upon the charges preferred by him, and further that the Hon. H. M. Rice, named in said charge, be also subpoenaed to appear and give evidence and produce the papers and correspondence in his possession, as alleged, for inspection and examination of your honorable board.

EDW. P. SMITH.

E. C. PALMER,
Respondent's Attorney.

This paper was marked Exhibit F and filed.

Subpœnas were issued for F. P. Clarke, of Minneapolis, and N. P. Clarke, of Saint Cloud.

The commission then took a recess till 2 o'clock p. m., at which hour they re-assembled, and proceeded to begin the taking of testimony, W. P. Jewett, of Saint Paul, being the first witness examined.

W. S. Wilson, esq., notary public, was present, and administered the oaths and reduced the testimony to writing.

At the conclusion of Mr. Jewett's testimony, no other witnesses being present, adjourned till the 10th instant, at 10 o'clock a. m., the map produced and shown in evidence having been first marked Exhibit No. 1, and filed.

And now, to wit, Wednesday, December 10, 1873, the commission met pursuant to adjournment, at the usual place, all the members being present.

The taking of testimony was resumed and continued all day.

The following communication was received from the Hon. Henry M. Rice, in answer to the subpoena of the commission :

SAINT PAUL, *December 10, 1873,*

To the Hon. N. J. Turney, chairman and member of Indian commission under act of Congress:

I have the honor to acknowledge the receipt of your communication, inviting me to appear before the commission to give evidence in regard to certain charges which you say you are appointed to investigate.

In reply, I have to say that in order to bring out the whole truth, or so much thereof as will clearly reflect the true state of the case, many unwilling witnesses will have to be examined. Some of these important witnesses are out of the State, and others are upon the Indian reservations, or in remote parts of the State, and the whole testimony required to elicit the true state of facts can only be brought out by a commission having full power and authority to compel the attendance of witnesses and the production of papers, and who can give ample time to those who prefer the charges to procure the required testimony. I have in my possession important documentary evidence, and can give the names of persons who can give material evidence ; but I must respectfully decline to appear before you unless you have full power and authority to compel the attendance of witnesses and the production of papers. If you can show that you possess these powers, I will promptly comply with your request. But I need not state to you the absurdity of an investigation which can only obtain fragmentary statements of matters from mere volunteer witnesses. I must therefore respectfully ask by what authority you are acting in the premises.

I ask this from having learned that the honorable Secretary of the Interior has said that you possess no compulsory powers.

I have the honor to be, your obedient servant,

HENRY M. RICE.

This paper was marked Exhibit G, and filed. A subpoena was returned "served" on T. B. Walker, marked Exhibit H, and filed.

The following telegrams were received during the day, and marked respectively exhibits I, J, K, and L, and filed.

I.

WASHINGTON, *December 9, 1873.*

To N. J. Turney, Chairman, &c. :

Received telegram from Welsh, as follows: Please postpone consideration: letter by mail: commission may arrange amicably. Signed Wm. Welsh. No reply will be made him by me.

C. DELANO,
Sec'y Interior.

J.

WASHINGTON, *December 9, 1873.*

To N. J. Turney :

The following reply has been sent to Welsh: The Secretary directs me to reply that in the absence of information from commission, he dislikes to suspend it, unless good reasons are assigned. The commission was organized at your suggestion, and injustice to Mr. Smith might result from abruptly terminating. He has telegraphed the commission for information.

B. R. COWEN,
Assistant Secretary.

K.

WASHINGTON, D. C., *December 9, 1873.*

To J. N. Turney, &c. :

The Secretary has just received the following telegram :

PHILADELPHIA, *December 9.*

Secretary Interior :

"As Minnesota commission cannot enforce witnesses, please suspend it formally, and let us confer privately, or I will be compelled to ask congressional investigation."

B. R. COWEN,
Assistant Secretary.

CHICAGO, December 10, 1873.

To J. N. Turney, Chairman Commission :

The charge of William Welsh, Philadelphia, against Commissioner Smith, that he concerted with us in procuring fraudulent transactions in Indian pine is a groundless falsehood, and so palpably such, that even the suspicion of it is without excuse.

E. F. WILLIAMS, *Pastor of Forty-seventh Street Church, &c.*
C. H. HOWARD, *Publisher of the Advance, &c.*

The commission then took a recess for dinner.

Re-assembled at 2 p. m.

The following telegram was sent to Assistant Secretary Cowen, a copy of which was marked Exhibit M, and filed :

SAINT PAUL, December 10, 1873.

B. R. COWEN,
Assistant Secretary, Washington, D. C. :

Have sent papers containing proceedings ; are taking testimony, having announced our purpose to proceed with the investigation. Do not see why commission should be suspended at this state.

N. J. TURNEY,
Chairman.

The commissioners having consulted during the recess as to what action to take upon the communication of Hon. H. M. Rice, Judge Jones read the following as the unanimous opinion of the commission :

In answer to this communication we have to say that we notified Mr. Rice to appear and give evidence before the commission, because Mr. William Welsh, at whose instance it was organized, in the charges preferred by him against Mr. E. P. Smith for our investigation, had directed our attention to the fact that Mr. Rice was in possession of papers and letters material in the case.

In regard to the intimation which he takes the liberty of making, that our investigation may not be as thorough and complete as might be desired, the commission is not able to see why he, as a mere witness, should deem this an excuse for declining to aid us by producing testimony in his possession which he intimates is most material. Commissions of this character are not unusual, nor have their investigations been unsatisfactory. As a full record is kept of these proceedings, which are conducted in the presence of the public, and all testimony is reduced to writing, and subject to inspection, it is scarcely possible that these investigations should not be fairly and impartially conducted.

We regret that a gentleman of *Mr. Rice's standing and large experience in Indian affairs*, while manifesting so much anxiety in having a full and thorough investigation of the matters submitted, should be the *first* and, so far, the *only party* refusing to obey our subpoena.

The commission then adjourned till the 11th instant, at 10 a. m.

And now, to wit, Thursday, December 11, 1873, the commission met, pursuant to adjournment, at the usual place, all the members being present.

The examination of witnesses was resumed. Edwin Jackson, stenographer, was sworn by Notary Wilson to take down and transcribe correctly the testimony offered.

A certain article having appeared in one of the daily papers, which the commission thought proper to notice, they expressed their opinion as follows, per Commissioner Jones :

A paragraph appeared in one of the morning papers which may do injustice to Mr. Welsh, whose charges this commission is organized to investigate, and we therefore deem it not improper to notice it.

Mr. Welsh is not a lawyer and may have misunderstood the legal effect of some of the documents upon which his charges are predicated ; and it may be that he has acted upon insufficient or unreliable evidence. As to this we express no opinion, it being our duty and determination to make a thorough investigation, with a view to eliciting the truth and the

whole truth. But it may be fairly mentioned to the credit of Mr. Welsh that he has not hesitated to put his charges in form so that the accused may have an opportunity of meeting them. We also deem it proper to add, that nothing has come to the knowledge of this commission, by telegraph or otherwise, indicating that Mr. Welsh desires any unworthy or corrupt arrangement for the termination of these proceedings.

The commission took a recess for dinner.

At the afternoon session a telegram was received from Secretary Cowen, which was marked Exhibit N, and filed. It was as follows :

WASHINGTON, December 11, 1873.

Hon. N. J. TURNER, *Chairman, &c.* :

O'Connor detained by sickness ; Inspector Daniels is at Saint Peter's or Minneapolis. If you need an inspector send for him and the Secretary will order him to sit with you.

B. R. COWEN,

Assistant Secretary.

The commission adjourned till the 12th instant, at 9 a. m.

And now, to wit, December 12th, 1873, (Friday,) the commission met pursuant to adjournment, all the members present.

Examination of witnesses resumed :

Subpœna returned "served," as to Ankeny, Clarke, Harrison, and Pillsbury, marked Exhibit O and filed.

At the close of afternoon session adjourned till the 13th instant, at 9½ a. m.

And now, to wit, December 13, 1873, 9½ a. m., the commission met pursuant to adjournment, at the usual place, all the members present.

Examination of witnesses resumed.

Mr. Smith asked that H. P. Hall be subpoenaed on behalf of the prosecution, which was refused for the following reasons, as announced by Commissioner James Smith, jr.:

We do not think we can properly be called upon, nor are we required upon our own motion, to issue a subpoena for Mr. Hall of the Dispatch. Mr. Hall appeared as a prosecutor by counsel, and has, since the commission met, formally withdrawn, and through his attorneys has advised us he does not recognize our authority to compel the attendance of witnesses. His position is different from that of Mr. Henry M. Rice, and the issuance of a subpoena for Mr. Rice is not a precedent for the present request. Mr. Rice was one of the witnesses named by Mr. Welsh, the prosecutor, and had not, previous to the issuance of the subpoena, notified us of his refusal to attend. Whilst this commission may not possess the full powers of a congressional committee, the results of its deliberations and findings are quite as important to the accused. If our investigation or report should sustain the charges or any of them, the official decapitation of Mr. Smith would be as effectually brought about as it would by a like finding by a committee possessed of more plenary powers. This the gentlemen prosecuting and procuring the institution of these proceedings understand. If Mr. Hall or any one else is in possession of facts or of documents material to this investigation, so important to the public, and of such serious consequences to the accused, and sees fit to take the responsibility of suppressing such testimony upon the quibble of a want of power on the part of the commission to compel his attendance, it appears to us that he overestimates his own importance and does not properly appreciate the intelligence of the people.

Mr. Hall has, however, given us and the public, copies of documents long since furnished us by the Interior Department, and no one pretends that he has any personal knowledge of any material fact we are authorized to investigate.

We decline, therefore, to issue the desired subpoena. If the accused desires the attendance of Mr. Hall, and supposes his testimony material as to charges already made, a subpoena, we think, ought to issue in his behalf, but not otherwise.

After the reading of this opinion, the commission adjourned till the 15th instant, at 2 p. m.

And now, to wit, Monday, December 15, 1873, the commission met pursuant to adjournment, at the usual place, all the members being present.

Examination of witnesses resumed, and continued until the commission adjourned till the 16th instant, at 2 p. m.

And now, to wit, December the 16th, (Tuesday,) 1873, the commission met pursuant to adjournment, at the usual place, all the members present; and after hearing two witnesses adjourned till the 17th instant, at 10 a. m.

And now, to wit, Wednesday, December 17, 1873, the commission met pursuant to adjournment, at the usual place, all the members being present; and sat till 3 o'clock, hearing the testimony of Indians from White Earth; at which time the chairman announced that the commission had finished its labors, as far as investigation in Minnesota was concerned, and the commission adjourned, to meet in Washington, at the call of the chairman.

And now, to wit, January 21, 1874, (Wednesday,) the commission met pursuant to the call of the chairman, at the office of Assistant Secretary of the Interior, General Cowen, at 11 a. m., present all the members.

Telegrams were sent to William Welsh and B. A. Simmons, as follows:

WASHINGTON, *January 21, 1874.*

TO WILLIAM WELSH, 1122 *Spruce street, Philadelphia :*

The commission appointed to investigate certain charges against Edward P. Smith desire to take your testimony, and would be greatly obliged if you could make it convenient to meet us at the Ebbitt House, in Washington, during the present week. Answer.

N. J. TURNEY,
Chairman, Ebbitt House..

That to B. A. Simmons was precisely similar. Copies of each were marked respectively Exhibits P and Q, and filed. Two telegrams of date December 9, 1873, which had been overlooked, were marked respectively Exhibits R and S, and filed.

Adjourned till the 22d instant, at 11 a. m.

And now, to wit, January 22d, 1874, the commission met pursuant to adjournment, present all the members.

The following communication was received from Mr. William Welsh, in response to telegram :

PHILADELPHIA, *January 21, 1874.*

DEAR SIR. Your telegram, asking my presence before the commission appointed to investigate certain charges against E. P. Smith when acting as Indian agent, was received this afternoon. You well know that the commission was not raised to investigate charges made by me, as at that time I did not even contemplate making the charges. I think that the commission placed itself in a false position when it proceeded to consider my letter after my attorneys had assigned sufficient reasons for refusing to conduct the case unless arrangements were made to enforce the attendance of witnesses. The attorney for the defence appreciated the delicacy of his position and of yours by suggesting his withdrawal from the case. I do not propose to vary from the position I took in my letter to the President, a copy of which is herewith. It is true that I have in my possession evidence that if placed before you will oblige you to criminate Agent Smith, but under the circumstances I am not willing to make him the scape-goat, over whom others far more guilty may secretly confess their sins. Whenever an investigation of the whole case is made by those who are authorized to convict the men who lured Mr. Smith on to his ruin, I will promptly attend and produce papers in my possession. The commissioners know the market value of pine timber on the Mississippi and its tributaries, therefore on this head I could not enlighten them by my presence. You also know that there is no law authorizing the sale of great tracts of pine timber on Indian reservations; and that Congress is not likely to enact a law authorizing such sales without

the consent of the owners of the soil. Please assure your colleagues that my unwillingness to testify before them is not owing to any personal disrespect for them individually.

Yours, very respectfully,

WM. WELSH.

Mr. N. J. TURNEY, *Chairman*

This paper was marked Exhibit T, and filed.

J.

INDIAN OFFICE.—WRONGS DOING AND REFORMS NEEDED.

PHILADELPHIA, *January 8, 1874.*

To His Excellency ULYSSES S. GRANT :

MY DEAR SIR: Allow me to recall to your mind our first interview, a few days after your inauguration, when I was acting as chairman of a committee comprising Judge Strong, Hon. Eli K. Price, Mr. George H. Stuart, and others. We were drawn to you by the following paragraph in your inaugural address :

The proper treatment of the original occupants of this land, the Indians, is one deserving of careful study. I will favor any course toward them which tends to their civilization, christianization, and ultimate citizenship.

To aid you in promoting this praiseworthy object, we tendered our co-operation and that of the large body of citizens whom we represented. In the course of our friendly discussion, it was admitted that frauds in the Indian Office and service had become chronic and difficult of cure. We suggested, as a remedial measure, the appointment by you, after procuring the authority of Congress, of a small board of unpaid commissioners, men of tried integrity, to have joint control with the Secretary of the Interior over all appropriations for Indian service, and thus to lift this service above political influences and other demoralizing tendencies.

You, and the then Secretary of the Interior, cordially assented to this proposal, and Secretary Cox draughted the first law that was enacted thus: "The board of commissioners is to exercise joint control with the Interior Department over the disbursement of appropriations, &c."

You were pleased to appoint me on that Indian commission, and my colleagues elected me their chairman. Owing to influences from without and from within the Department, the sources of which were carefully concealed from that most excellent Secretary of the Interior, instead of giving the board the joint control indicated in the act of Congress, its powers were limited to that of a mere council of advice. Having a more thorough knowledge than some of my colleagues of the political power of the Indian Ring, and of the deep-seated malady in the Indian Office, and being unwilling to assume responsibilities without any power of control, I peremptorily resigned my commission, at the same time pledging myself to you that I would serve the cause as a private citizen with equal zeal and without cost of any kind to the Government. The propriety of my course became manifest in 1871, when the Indian Office was investigated by a congressional committee, and at this time it is, in my judgment, still more manifest.

Before I refer to the present lamentable condition of the Indian Office, allow me to thank you with all sincerity for your invariable kindness to me during the five years in which I have, at much cost of time and money, co-operated with you in your noble effort to save the rem-

nant of our American Indians, and thereby to remove a fearful stigma from the nation. We all owe you a debt of gratitude for taking Indian agencies from those who ordinarily were using them as party spoils, and for transferring them to the care of religious bodies, who expend hundreds of thousands of dollars annually in successful efforts to civilize and christianize Indians. Again, when under authority of law you deprived the governors of Territories of their *ex-officio* right to the superintendency of Indian affairs, you eradicated one of the most prolific sources of the evils from which the Indian service in our Territories and new States is slowly recovering. As you have been fully sustained in these and other heroic acts, and as your Indian policy is no longer experimental, the present condition of the Indian Office should not create any despondency, for I feel sure that Congress and the people will sustain you in applying a thorough remedy.

At our recent appointed interview, I felt constrained to inform you that since the last letting of contracts for supplies, a powerful Indian ring, comprising men whom I named to you, had been formed, and that, in some unaccountable way, it had acquired such an influence in the Interior Department that, if unchecked, it would undermine your merciful policy by destroying the confidence of Congress, and thus hindering the appropriations necessary to promote Indian civilization. As you will remember, I further said that my belief in the integrity of the Secretary of the Interior had not been impaired, and that, having thoroughly cordial relations with him, I desired to exert every persuasive influence before invoking your aid. As these efforts have failed to procure the reforms in the Indian Office necessary to protect the Indian and the Government, I now present the case to you in an open letter, as I do not feel free to confer with you privately about the duties of a cabinet officer.

I notified Mr. Delano, as a friend, that he was surrounded by influences that were operating adversely to the interests of the Government and the Indian. He insisted upon my preferring specific charges against his officers, instead of looking into the Office of Second Auditor, and also into the returns office, himself. He could, in the latter office, have seen that the law was constantly violated by keeping contracts from public observation, although there is a penalty of imprisonment if each contract is not speedily recorded in that office, where it is to be kept open for public inspection. The Secretary of the Interior was, until I recently advised him, kept in ignorance of a contract made by Agent Smith, now the Commissioner of Indian Affairs, on the 8th day of November, 1872, for the illegal, and, as I believe, the otherwise wrongful sale of immense bodies of pine timber, without the knowledge of some of the Indians to whom it belongs, and against the openly-expressed wishes of other bands who own a portion of it. The commissioners for investigating half-breed scrip, Agent Smith and Judge Jones, one of the present examining commissioners, had previously reported timber, said to be far less valuable than this, to be worth \$2.50 to \$3 a thousand, and yet this contract was made at \$1.15 a thousand, without advertising, or in any other way inviting competition. A portion of this timber had been previously sold by Agent Smith to Clarke at \$1.35 per thousand, and Clarke testifies that he was willing to give that price for the whole, but Agent Smith said that he could not sell it. Agent Smith subsequently notified Clarke that the contract he entered into with him was void, because the Indians at Oak Point had determined not to sell their pine timber. Subsequently this timber, with large bodies of timber belong-

ing to other Indians who had not been consulted, was sold to A. H. Wilder at \$1.15, as before referred to.

It is true that this contract received the approval of that most honorable gentlemen, Gen. F. A. Walker, the then Commissioner of Indian Affairs. His explanation is given in the following extracts from letters written by him to me, dated December 5 and 18, and to Gen. B. R. Cowen, Assistant Secretary of the Interior, dated November 13, 1873. General Walker sent a copy of the latter letter to me, from which it appears that General Cowen was a party to the negotiation.

(December 5.) "With reference to the specific matter of your inquiry, I would say that I do not remember ever to have heard of the refusal of the Indians at Oak Point to allow the Clarke contract to be consummated until I learned it from you at our interview at the Ebbitt House, on Saturday last. If it was ever reported to the Office, it either never reached my eye, or I was inexcusably heedless in respect to it, for I cannot recall the circumstance."

(December 18.) "Agent Smith was thoroughly cognizant of the situation, yet he recommended the sale of the timber, and approved the terms of sale in detail and as a whole."

November 13, to General Cowen. "Mr. Smith, then agent for these Indians, now Commissioner of Indian Affairs, being at the time in Washington, represented to the Office in very strong terms the inadequacy of the provision that would be effected by the sale of the timber first offered," [to Wilder, being the same timber that had been sold by contract to Clarke,] "and the necessity of doing something more to relieve the Leech Lake Indians from the miserable condition of vagabondage and almost of starvation in which they were." "In the matter of a fair price for the whole body of the timber I had a reasonable reference to the judgment of Agent Smith, who stated that he was fully conversant with this location, and deemed the sum named to be reasonable and adequate." "The question submitted by Agent Smith seemed in effect to be whether the Indians should be permitted to starve in possession of valuable property which they could not use, or whether that property should be put into a form which would allow them to receive their own self-support." "Certain I am that it was this view of the case, as presented by Mr. Smith, which determined me to recommend that the Department entertain Mr. Wilder's proposition for the entire body of the Leech Lake timber, and accept the same on two conditions: First, that a fair price could be obtained for the whole; second, that Mr. Wilder would make payment in advance of a considerable sum (I think \$50,000 was the sum mentioned) to enable the agricultural improvements to be commenced with the opening of spring. Upon the question in this form the consultation between you, Mr. Smith, and myself, was free and informal." "We are all responsible, therefore, each in his own place and degree; you and I for giving undue weight to the representations of the agent, the agent for making representations which, if false, he must have known to be false." "The amount which Mr. Wilder was required to deposit in advance to the order of Indian Office, and the substantial bonds required from him for the proper completion of his contract," &c.

If Mr. Wilder paid the \$50,000 of advance money, it is certain that no part of it ever reached the United States Treasury, or that not one dollar of it was expended for the relief of these poor, perishing Pillager Chippewas. General Walker, who still has confidence in the good intentions of Agent Smith, was evidently hastened into an approval of the contract without the knowledge that the rightful owners of part of the timber had refused to let it be sold; without the knowledge that

it had not been advertised, or the sale open to fair competition, and under the belief that Indians, turbulent through starvation, yet desiring implements of husbandry and seeds, would be relieved in the early spring. By reference to the report of General Terry, you will learn that no implements of husbandry or seeds were sent to these Indians, and that, consequently, they are disheartened and almost starving. Even the \$10,000 which was to have been paid under the terms of the contract on the 1st day of May, was not received into the Treasury until after the exposure of this stupendous iniquity. If the whole truth in relation to this and other similar transactions in that region is brought to light, I fear that the band of white pillagers will outnumber their red brethren of that name. Secretary Delano appointed four commissioners to examine this and other alleged irregularities of Agent Smith, and they, supposing that they had power to subpoena witnesses, summoned me before them at Saint Paul, Minnesota. I had not thought of preferring charges against Agent Smith until after the receipt of that summons, when, being unable to attend in person, I prepared charges at the request of Secretary Delano. I append a paper from my attorneys, who withheld the copy of my charges that I had sent to them, because, as they say, in the midst of a community personally interested in these lucrative contracts, an examination by a commission, without power to compel the attendance of witnesses, "can result in little more than a farce." After I heard that, instead of handing to my attorneys the copy of my letter that I had inclosed to the commissioners, they were going through the form of an investigation, I telegraphed them that Inspector Daniels, who was present in Saint Paul, at the request of the Secretary of the Interior, could invoke the aid of the Federal court, and thus enforce the attendance of witnesses.

From the reply of the commissioners, I infer that they are quite content with the examination of parties to the contract and others like-minded, allowing the presence of an attorney for the accused, without having any one present to conduct the prosecution. The verdict of such examiners can have little influence upon the mind of any disinterested person. I stand ready to verify before a competent tribunal every charge that I made against *Agent* Smith, or openly to retract them, and also to add numerous charges against his conduct as *Commissioner* of Indian Affairs, such as the following :

Without consulting the board of Indian commissioners, in accordance with a specific law of Congress, and without advertising, Commissioner Smith made extensive private contracts with A. H. Wilder and others, for supplies and for freight, and substituted corn for contract flour, and barreled pork for contract bacon. Some of the vouchers approved by Commissioner Smith for the expenses of Indians visiting Washington, give evidence of fraud, and surely there was great extravagance in the allowance of forty-five dollars per trip to a clerk in the Indian Office for railroad fares from New York to Washington and back, each time he spent Sundays with his family ; also, six dollars a day for expenses, in addition to his regular salary. These are mere illustrations that chance to be before me at the moment, and although trifling in amount, yet they give indications of the general management of the Office. I do not claim that the Secretary of the Interior is accountable for all these irregularities, as vouchers are often passed in spite of his remonstrances. Thus, there had been a persistent attempt for a long time to foist upon the Department a quack nostrum of doubtful morality. Commissioner Smith purchased it to the extent of five thousand dollars, and having directed that it should be charged to the appropria-

tion for *raccine virus*, it was for this cause brought to the notice of the Secretary of the Interior, and by him disallowed, as on former occasions. It was, however, subsequently approved in the Secretary's Office, and charged to other appropriations. This serves as an illustration of my statement that the Secretary of the Interior should not be made responsible for all the acts of those under him. I will, however, refer to acts for which he is directly responsible. When the Assistant Secretary of the Interior visited Indian agencies, he was allowed, in addition to all his expenses, eight dollars a day, while receiving salary as a Government officer.

This violation of the law, although unimportant in amount, is ruinous to the morality of the Department, as it practically sanctions still greater irregularities by others who hold inferior offices.

The board of Indian commissioners will assemble in Washington about the middle of this month, and from them you can learn the particulars of their recent efforts to check irregular and fraudulent practices, and their want of success in these efforts. Since the last public letting of contracts for supplies, the contractors have combined, and seem to possess greater practical influence in the Interior Department than the board of Indian commissioners. Vouchers, I learn, to the extent of nearly half a million of dollars, were rejected by the board of Indian commissioners, under the belief that they were fraudulent, illegal, or irregular, and yet most of these have been paid by order of the Secretary of the Interior. A beef contractor, whose fraudulent practices are on record in the Interior Department, and whose bids were consequently rejected by the board of Indian commissioners, was allowed to sub-let the contracts for the last fiscal year. To guard against the recurrence of this glaring wrong, the board of Indian commissioners caused the following paragraph to be inserted in the proposals for supplies for the current fiscal year: "No contract, or part thereof, will be permitted to be assigned or filled by other parties, without the written consent of the Secretary of the Interior."

I was invited to be present at the opening of these bids, and was privy to the fact that the board of Indian commissioners endeavored to avoid the possibility of the recurrence of the wrongs of the previous year. They divided the contract for cattle between residents in Minnesota, in Nebraska, and in Kansas, and yet the same objectionable contractor has been permitted to purchase one or more of the shares, and to supply the cattle for the other contractor or contractors, with the full knowledge of the Interior Department. When awarding contracts for cattle and for freight, we were all surprised at the urgency of General Cowen, Assistant Secretary of the Interior, and of Indian Commissioner Smith, that large contracts should be given to A. H. Wilder, of Minnesota. The commissioners telegraphed to Minnesota, and found his mercantile standing good, but they were left in ignorance of the fact that five months before that time the somewhat notorious contract for pine timber had been concluded by Mr. Smith, and approved by General Cowen, Acting Secretary of the Interior, without having been reported to Secretary Delano, as he testifies. Had this fact been known, I am satisfied that the board of Indian commissioners would not have approved the contract with Wilder, and certainly they would not have removed the objections urged against Agent Smith in the Senate, when his name was brought before it for confirmation as Commissioner of Indian Affairs.

At your request, the board of Indian commissioners will, undoubtedly, report the extent of purchases and contracts for supplies and for

freight made without conference with them, and of vouchers paid without having been submitted to them, in accordance with a law of Congress, well known to the Secretary of the Interior and the Commissioner of Indian Affairs.

I do not ask your help in canceling the illegal and the fraudulent contracts for pine timber. The Secretary of the Interior has already suspended action under them, and if neither he nor Congress see fit to annul these contracts, the rights of the Indians can be sufficiently protected by the courts in Wisconsin and Minnesota.

I do respectfully, but earnestly, ask your aid and that of Congress in producing such a reform in the Indian Office as will protect the interests of the Indian and of the Government, and insure the continuance of the humane policy that has, from my own observation, been more successful than even the best friends of the Indian dared to hope for.

Congress is, to a certain degree, responsible for a part of the wrong. A salary of three thousand dollars a year is entirely inadequate to secure all the time of an intelligent and competent Commissioner of Indian Affairs. Salaries varying from six to ten thousand dollars and upward are paid in our insurance companies and banks to officers of less capacity than is required properly to manage the Indian Office.

A salary of twenty-five hundred dollars a year to each Indian agent would be true economy. In some cases the religious bodies pay the United States Indian agent a salary in addition to the fifteen hundred dollars received from the Government, because they find that sum wholly inadequate to secure honest men with sufficient capacity for that office. This divided responsibility should be avoided, and it is rather humiliating to the Government to have charitable associations eke out the salaries of its officers, and wholly irregular for Government agents to have two paymasters. When agents purchased the office with money or political service, and were expected to enrich themselves at the expense of the Indians, the salary was a small portion of the income. Now they are instantly removed from office if known to yield to temptations that still have great power through long usage.

Agents with families, living on \$1,500 a year, where food is costly and obliged to entertain strangers because of the absence of other houses, and to assist sick and poor Indians, are of necessity straitened. Poverty and debt decrease respect for the Government, and often weaken moral principles. At such a juncture men who had withstood other temptations have yielded to the persuasive overtures of contractors and speculators in pine timber. The power of these temptations is frequently increased by an alleged or real influence in the Interior Department. Sometimes the agent, when entering upon his duties, finds his reservation under the control of contractors, and, before he becomes aware of it, he has appended his signature to vouchers certified to by his employés. The discovery of this has, in several cases, demoralized the agent and placed him under the control of the experienced employé. That contractors known to be adepts in this form of villainy have influence in the Interior Department is an undeniable fact, causing much anxiety to some of the best friends of Indian civilization.

If the whole Indian service could be placed under the entire control of the Society of Friends, the many forms of demoralization, now so baleful in their influence, could be checked, Indian civilization promoted, and I do believe a million of dollars a year saved by the Government. There is a devotion to this cause in the Society of Friends that I do

not find as marked in any other religious body, and this, with their large experience, gives them peculiar facilities in procuring and supervising conscientious agents. Such a plan, if practicable, would not interfere with the missionary operations of other religious bodies, and, indeed, some of them would prefer to confine themselves to their legitimate work, allowing the governmental or secular duties to devolve on others better fitted for it. This, however, may be impracticable; but there is a change in the conduct of the Indian Office that I think can be made advantageously. I understand that in the Treasury Department the entire appropriation for Indian service is included in one general Indian account, although Congress at much labor itemizes its appropriations. There is, therefore, no sufficient check upon the Indian Office, and upon examination it will, no doubt, be found that the directions of Congress are not always regarded. Thus, the \$5,000 spent for quack medicine was directed to be charged to an account that should have covered vaccine virus only. The sum of \$710.31 allowed to the clerk before referred to as car-fare, at three times its actual cost, is indorsed as follows: "Approved; charge appropriation for incidental expenses, Indian service in Dakota. Edwin P. Smith, Commissioner." If the items in the appropriation bill are not to be regarded, the expenditure is at the discretion of the Interior Department, and it will be much more satisfactory hereafter to appropriate a specific sum. A reform in legislation for Indians was commenced last year by preventing the use of appropriations in advance of the fiscal year, and by remanding the unexpended balance back into the Treasury. The absence of such a law has hitherto been a fruitful source of demoralization.

The uniform courtesy with which I have been treated in the Interior Department makes this frank statement of wrongs a painful duty, and yet it is one that I could not resist, because impelled by pledges made time and again to Indians and to their best friends. I desire it to be understood that I fault no well-intentioned person because of improper appointments to office, but only when such officers are allowed to remain after their incompetency could and should be known. I have counted the cost of making this public statement, and, as in former instances, I am quite prepared for misunderstandings and misrepresentations from parties who seem to glory in wronging the Indian and the Government. The usual course with such persons is to charge the fearless friend of the Indian with personal vindictiveness, that his influence may thereby be decreased. Having now performed my duty as a private citizen, I am quite content to leave the work of reform in the hands of one upon whom the responsibility has been placed by the people of this land.

Yours, very respectfully,

WM. WELSH,
1122 Spruce Street.

The following telegram was received from B. A. Simmons, esq.

HARTFORD, CONN., *January 22, 1874.*

To N. J. TURNEY,

Chairman Investigating Committee, Ebbitt House :

I do not see how I can possibly come here this week.

B. A. SIMMONS.

Marked Exhibit U and filed ; and the following reply was sent :

WASHINGTON, *January 22, 1874.*

To B. A. SIMMONS, *Hartford, Conn. :*

Can you be here not later than Tuesday next ?

N. J. TURNEY, *Chairman.*

Copy marked Exhibit V, and filed.

Adjourned till the 24th instant at 11 a. m.

And now, to wit, January 24, 1874, the commissioners met pursuant to adjournment, present all the members.

The following telegram was received :

HARTFORD, CONN.

To N. J. TURNEY,

Chairman Investigating Committee, Ebbitt :

I will come to Washington Monday if desired. Answer immediate.

B. A. SIMMONS.

Marked Exhibit W, and filed ; and answer was sent as follows :

WASHINGTON, *January 24, 1874.*

To B. A. SIMMONS, *Hartford, Conn. :*

Come.

N. J. TURNEY, *Chairman.*

A copy of which, marked Exhibit X, was filed.

The following telegrams were also sent :

WASHINGTON, *January 24, 1874.*

To Gen. F. A. WALKER, *New Haven, Conn. :*

The commission want your testimony. Will you come here by Tuesday, or shall statement you prepared be forwarded for your affidavit. Answer, Ebbitt House.

N. J. TURNEY, *Chairman.*

Copy marked Exhibit Y, and filed.

EBBITT HOUSE, *Washington, January 24, 1874.*

To R. B. SMITH,

Claim Agent, Columbus, Ohio :

Please send depositions immediately.

T. C. JONES.

Copy marked Exhibit Z, and filed.

The commission then adjourned to the Ebbitt House, and spent the rest of the session reviewing the minutes and testimony.

Adjourned to meet Monday, the 26th instant, at 10 a. m.

And now, to wit, January 26, 1874, the commission met at the Ebbitt House, at 9:30 a. m., present all the members, and spent the entire day reviewing the testimony.

The following telegram was received, marked Exhibit A2, and filed :

NEW HAVEN, CONN., *January 26, 1874.*

To Hon. N. J. TURNEY, *Ebbitt House :*

Professional engagements and sickness in family forbid my coming. If you desire affidavit that statements in Cowen letter were true to the best of my knowledge and recollection at the time, I will make oath to it here.

FRANCIS A. WALKER.

Adjourned till the 27th instant at 10 a. m.

And now, to wit, January 27, 1874, the commission met at the Ebbitt House pursuant to adjournment, present all the members, and then adjourned to the Interior Department building, where the testimony of

Emily S. Cook, John J. Knox, John B. Sanborn, and Byron A. Simmons was taken, after which the commission adjourned from day to day until Feb. 2, 1874, when it adjourned *sine die*.

F.

TESTIMONY.

AMHERST H. WILDER, being duly sworn at the instance of the commission, testified as follows :

My name, Amherst H. Wilder; forty-five years of age; reside at Saint Paul, Minnesota. I am the same person alluded to in charge No. 1 filed here. I first learned that timber had been offered for sale under advertisement, about the 5th of September, 1872, and then, by seeing in an old newspaper the advertisement asking for proposals, I cut the copy of the advertisement from the paper, and about the 10th of September, 1872, I started for Washington. I had not seen agent E. P. Smith, and did not know him previous to this time nor had I had any communication with him whatever. I called upon the Commissioner of Indian Affairs, General Walker, about the 16th of September, 1872, and showed him this advertisement for proposals, and told him I had but just seen it before leaving home, too late to put in a regular bid; the time for receiving bids under it having past, (being on the 16th day of August.) He told me if I had anything to say or any propositions to make for the timber I could address him a communication in writing and he would act upon it. I did so, and this is a copy of the letter addressed to him, (marked Exhibit A A and hereto attached.) After addressing him that communication, (he not indicating what action he proposed to take relative to the matter,) I left Washington (the same day) and returned to Saint Paul. Three or four days after my return to Saint Paul, I received a communication from Commissioner Walker, dated September 19, 1872, of which this paper (marked Exhibit B B and hereto attached) is a copy. After receiving this letter, I made inquiries as to where Agent Smith could be seen. I telegraphed a clergyman in Minneapolis, whom I supposed knew the whereabouts of agent E. P. Smith, and was informed by that gentleman that he (Smith) was off making his payments. I next applied to Horace A. Hills, of Brainard, Minnesota, to inform me where I could find Agent Smith. Hills replied that Smith would be at Brainard on the 17th day of October. Acting upon this information, I went to Brainard, and there met Agent Smith on the 17th day of October; it being the first time I had ever seen him to my knowledge. I showed him my letter from Commissioner Walker of September 19, and asked him if he had heard anything from the Commissioner relative to my proposition for pine timber. He stated that he had just received a communication from Commissioner Walker upon that subject. I then asked him if he was ready to make a contract, he replied that he had been unable as yet to give the subject any consideration, and declined to take any action in the matter at that time. Nothing further was done. He left for his payments and I came home by next train. I never saw Agent E. P. Smith after that time, until I met him at Washington during the pendency of the negotiations, except once in November, when I met him on Jackson street on his way to the cars, and once thereafter when I rode in the same car with him from Racine to Chicago. I had no conversation with Smith

in regard to the pine timber while riding with him from Racine to Chicago, nor at any time after my interview with him at Brainard, until I met him at Commissioner Walker's office in Washington. My negotiations relative to the pine timber were with Commissioner Walker. I asked the Commissioner if I was to be awarded the contract, and he said I was. He made the original draught of the contract, and on the second day thereafter the contract was ready for execution, in accordance (as to price) with my proposition of \$1.60 per M feet. Just about the time the contract was to be executed, he asked of (or said to) Agent Smith: "Some of these Indians on the reservation have no interest in this timber; won't they be displeased if they don't get money for timber?" Agent Smith replied that very likely they would. The Commissioner then asked me if I would buy all the timber on the reservation. I replied that I would if he desired to sell it. He then requested me to make a proposition for it, which I did. This proposition was a new one, and was for a larger amount of timber than was covered by my first proposition, which timber it also included; by it, I proposed to pay \$1 per M feet. The Commissioner refused to accept this offer. I then raised it to \$1.15 per M feet, which price was accepted. In the discussion with the Commissioner, we estimated that my bid of \$1.60 for the Oak Point timber covered about twenty or thirty million feet of timber, which estimate embraced the timber of the Mississippi River and the outlet of Leech Lake River, and which was considered as more valuable than the remainder of the timber on the reservation on account of its accessibility. The pine included in my first proposition was (according to my information) principally white pine. In estimating the Leech Lake timber, we thought there was about two hundred million feet or more, and it was not as accessible as the Mississippi River timber.

I have always been told that it takes two seasons to get the Leech Lake timber into Minneapolis. The Oak Point timber comes out the first season; consequently the value of the Leech Lake timber per M feet was not as great as the Oak Point timber. I don't think timber on Indian reservations as valuable as that on free lands, on account of there being a greater risk of trouble from the Indians, and also, of the necessity of paying higher wages to men for labor on account of apprehended trouble from the Indians. I had understood that the Leech Lake Indians were troublesome, and that the Oak Point and Mississippi Indians were not regarded as very troublesome.

Supplies to be furnished at the Leech Lake reservation profitably would require a steamer to be provided to run through Leech Lake River and Leech Lake. I had understood that, in order to do business there, it would be necessary to own a steamer, as the logs would have to be towed through the lake by steamer, first being rafted, then taken to the mouth of Leech Lake River, the rafts being there broken up, and the logs run singly to the Mississippi. The principal portion of the timber was at the farther extremity of Leech Lake. In view of these facts, as I understood them, I made this bid for the timber. After the \$1.15 bid was accepted, General Walker proceeded to make the contract. He (General Walker) drew the draught of the contract himself, including the timber on the whole reservation. When the copy was prepared, it was executed by Mr. Smith, as agent, and approved by the Commissioner. The Commissioner said the agent was the proper party to sign the contract.

Agent Smith was present nearly all the time during the negotiations. The contract was signed by Agent Smith and myself, and approved by Commissioner Walker. The required bond was given. I paid \$10,000

in compliance with the terms of the contract. Smith said to Commissioner Walker that the price named (\$1.15) was better than he had been able to have offered.

In answer to a question by James Smith, jr., of the commission, Mr. Wilder said neither Mr. E. P. Smith or any other person connected with the Interior Department had any interest whatever in this contract as they were all strangers to me. I had no communication with any of them, except as above stated.

Interrogatory by James Smith, jr., of the commission. You state that Agent E. P. Smith had no interest whatever in this contract at the time of its execution. Has he or any other person connected with the Interior Department, since that time, or ever, acquired any interest in said contract or the pine so purchased; or is there any understanding that the agent, or any one for him, or any one connected with the Interior Department, is to acquire any such interest or to participate in the profits or proceeds in any manner or form? If so, state fully all the facts connected therewith.

Answer. No person connected with the Interior Department before or since the contract was made, had, has, or is to have, any interest in the contract.

Interrogatory by James Smith, jr., of the commission. I desire you to state, to the best of your judgment and belief, which of the two propositions, the sale of the pine on Oak Point reservation at \$1.60 per M feet, or the sale of all the timber on the entire reservation as embraced in the contract actually executed at the contract price of \$1.15, is most to the advantage of the Indians interested.

Answer. I think that the acceptance of the proposition at \$1.15 was much more to their advantage than the acceptance of the proposition at \$1.60; and I am more confirmed in that opinion now than I was when the propositions were made.

Interrogatory by James Smith, jr., of the commission. State all the facts within your knowledge relative to specification No. 6, now read to you.

Answer. The first I ever knew of the Lac Court Orielles pine, was from information received from a man by the name of Goucher about the last of November or first of December, 1872. He told me that the pine on the reservation had been sold by S. N. Clark, agent of these Indians, to a man by the name of Rust for \$50,000, but the contract had not been approved at Washington, and that he proposed himself to buy it, and asked if I would join him in the purchase, saying at the same time that it was worth much more than \$50,000. He also stated that he had been notified from Washington that a bid would be considered from him. After Goucher's explaining to me the value and quantity of the timber, I declined to join him in the purchase. However, during the day, I made inquiry of two gentlemen in the city, whom I supposed were acquainted with the timber, as to its quality and value. After my interview with the gentlemen referred to, I called upon E. P. Smith, and stated to him the information I had received from Goucher, this being the first time I had called upon him or spoken to him in reference to the Lac Court Orielles timber. Smith said it was true that Agent Clark had contracted the timber to Rust for \$50,000, and in his (Smith's) opinion the timber was worth much more money, and he had stopped, or caused to be stopped, the approval of the contract at Washington. He also told me at this first conversation that the approval had been stopped. He told me that there was over one hundred million feet of timber on the reservation, and we considered it worth \$1 per M. He

asked me if I didn't want to buy the timber, saying that he had already secured parties who would give \$100,000 for it, but that it ought to sell for more. I finally told him that I would offer to pay \$100,000 for the timber on the reservation, and that, if the amount of timber exceeded one hundred million feet, I would pay for the excess at the rate of \$1 per M feet. I then made my proposition in the form of a contract, and submitted the same to Smith for inspection and revision. The contract sent to Smith was revised by him and sent back to me, and by me put in proper form, and then again sent to Smith for him to send to Agent Clark.

Interrogatory by Mr. Turney of the commission. What changes were made by Mr. Smith in the contract?

Answer. There were several changes made which he considered as guarding and better protecting the interests of the Indians; he also struck out a clause allowing me to cut hay for \$1 per ton on the reservation, saying that the quantity was limited, and that there was a demand for it among the lumbermen, and that I should pay the Indians whatever it was worth in their market. The contract was then forwarded by Smith to Agent Clark, and I received an acknowledgment of its receipt from Agent Clark. Agent Clark also informed me that he could take no action on the contract, as he had been ordered from Washington to take no further action until he received further instructions from the Department. I know nothing as to what became of the contract after that. There was no arrangement or understanding with Mr. Smith that he was to receive any benefit from this transaction.

(Witness's previous testimony having been read to him, he was asked by the commissioners whether he had anything to add to it, and replied in the negative.)

Interrogatory by Judge Jones of the commission. State what you know of the timber on Lake Superior, in what is known as the Rust contract?

Answer. I know nothing of this timber from personal observation; my knowledge of it is from explorers and from gentlemen here in town.

Interrogatory. Had you any knowledge at the time you made your proposition for that timber of the quantity or quality of the timber, except from hearsay?

Answer. I had not.

Interrogatory. Had you any conversation with Agent S. N. Clark with reference to this timber or contract that you have not detailed?

Answer. I am not positive on that point. I think I once saw Agent Clark after sending him the contract, and that he said he would have been glad to have given me the contract if he could have done so.

Interrogatory. Do you recollect whether he gave you any reason why he could not give you the contract?

Answer. The only reason given was in the letter I received from him. He might have repeated it when I saw him after sending the contract, and the reason he gave me was that he had been instructed from Washington by the Indian Department. I cannot put my hands on that letter now, although I saw it a few days ago. (Letter since found and hereto attached, marked Exhibit C C.)

Interrogatory. Has Agent Clark been in Saint Paul recently?

Answer. I saw him here some time during the fall. I only know from information that he was here since then.

Interrogatory. Was he here since the commission first sat?

Answer. I only know from parties connected with the church-hos-

pital. One of the officers of the church-hospital told me he was there a week ago last Tuesday. He left on Tuesday of last week.

Interrogatory. He left St. Paul?

Answer. Yes.

Interrogatory. Have you a copy of the letter you wrote to Washington with reference to this timber?

Answer. I did not write to Washington. I wrote to Agent Clark. I think the copy is correct as given in the Saint Paul Dispatch. I will produce a copy if required. I don't find agent Clark's letter of acknowledgment, although I have seen it within a few days. (Since found and attached, marked C C.) I will make copies of my communications with Agent Clark.

Interrogatory. Had you, in your offer for the pine embraced in the Rust contract, any arrangement that any person connected with the Indian Department or the Interior Department was to have any interest therein?

Answer. No; not with any person whatever; neither with Agent Clark or Agent Smith.

Interrogatory. I understood you to say that you did not know what became of the contract after you forwarded it. Have you seen it since?

Answer. No; it has never been returned to me. I had no official communication connected with it, except the letters to Agent Clark and from him. Never had any communication with Washington about it.

Interrogatory. Do you know how long it is since Commissioner Walker went out of office?

Answer. I cannot tell. My impression is that it was last March or April, some time after this contract with me was made. Perhaps the latter part of February or March, this year. I think it was March.

Interrogatory by Judge Palmer for defense. Do you claim that you are entitled to any pine except what you pay for?

Answer. I have never made such a claim.

Question. In these contracts are such clauses usual that you are not obliged to take pine except of certain dimensions?

Answer. I don't know what is usual myself. In such contracts that clause was in so far as I am aware, but my experience is limited.

Question. Had you any design to cut any timber that you did not pay for?

Answer. No.

Question. When you met Agent Smith at Brainard, the first time you saw him, how did he seem to feel, with reference to being pleased or otherwise, at the condition of things at that time?

Answer. I don't know. I can only give my opinion. I inferred that he was not very well pleased at my making bids at Washington. I supposed he thought that I had went out of the regular channels from his treatment of me.

Question. Was he offended?

Answer. I thought he tried to ignore me. That was only my inference. I thought he was not pleased, and that he thought I should have gone to him; that was all. I had no extended conversation with him then. He told me at once that he had not had time to think of the matter, and he did not give me any answer or promises with reference to the contract.

A. H. WILDER.

W. P. JEWETT, being duly sworn at the instance of the commission, testifies as follows:

Interrogatory by Commissioner Jones. State your name, residence, age, and occupation.

Answer. W. P. Jewett; residence, St. Paul; age, twenty-five years; occupation, chief draughtsman, surveyor-general's office, Minnesota.

Interrogatory. State whether the map here exhibited, purporting to be a map of the Leech Lake reservation, Minnesota, was compiled by you; and, if so, from what data, and your judgment with regard to its correctness.

Answer. I did compile it; partly from official data in the surveyor-general's office, and partly from information obtained from explorers and surveyors. All that portion subdivided into sections, including the location of lakes and streams in the subdivided portions, and intersection of all lakes and streams upon standard and township lines, are from official data on file in the surveyor-general's office of Minnesota. All the exterior boundaries of the reservations are represented by red lines. The reservations were platted from the treaties as given in the General Statutes. The addition to the reservations for the Pillager Indians was taken from the treaties as laid down in the General Statutes and instructions received from the Commissioner of the General Land-Office, and the same also in regard to the reservation for the Mississippi Chippewas. There are two locations of the lake called Lake Hassler in the Leech Lake reservation. The one shown by the blue margin, given by Major P. H. Congar, deputy surveyor, who has the subdivisions of the reservation under contract. The other is indicated by red shaded lines; the latter making of the former two distinct bodies of water. The data for the latter location is from T. B. Walker of Minneapolis, Minnesota. I believe the map to be correctly constructed from the data which I have.

Interrogatory by Judge E. B. Palmer. Is there anything in the data used by you for compiling this map indicating the character of the country embraced in these reservations, and the quantity, quality, and location of the timber; and, if so, what?

Answer. Yes; to a partial extent. In all of the notes returned by the deputy surveyors they have stated in some instances where the lines of the subdivisions and township and standard line have entered and left bodies of pine timber, and have in their general descriptions (attached to their field-notes) alluded in general terms to the character and quality of the timber and soil. Where lines are indicated as crossing streams, the width of the same and the flow of the water are indicated, from which a judgment may be formed as to the availability of the same for logging purposes or otherwise. None of these indications are reproduced upon this map, except as to the general course of the streams.

W. P. JEWETT.

Sworn to and subscribed before me this 9th day of December, A. D. 1873.

[SEAL.]

W. S. WILSON,
Notary Public, Ramsey County, Minn.

N. P. CLARKE, being duly sworn, at the instance of the commission, testified as follows:

My name is N. P. Clarke; residence, Saint Cloud, Minnesota; age, thirty-

six years. I have been engaged in the business of lumbering for six or seven years. I am not the Mr. Clarke who is spoken of as making the Oak Point contract; nor have I ever made any contract with Mr. E. P. Smith for timber. I have been in the Leech Lake country several times, and down through Leech Lake and Leech Lake River to the Mississippi River. (Referred to map, Exhibit No. 1.) In going through Leech Lake and down Leech Lake River no pine was noticed in the immediate vicinity of the lake or river. Leech Lake River is a slow, sluggish stream, with low land on each side, and in some places tamarac and cedar timber running up to the river. Leech Lake River has several pockets, which are easily taken for the main river, and you often run into them and have to back out again. These pockets make it more expensive to drive logs down the stream. I was looking at it with a view to lumbering purposes, intending to secure some land on Boy River. Leech Lake River runs through Mud Lake, and Mud Lake is very shallow. Logs might be got through Mud Lake by applying mechanical force, either by getting them across the lake by anchors or by the assistance of a tug-boat. Logs that are thrown into Leech Lake will have to be boomed or rafted and drawn across Leech Lake to the head of Leech Lake River, then the rafts are broken up, and the logs driven down Leech Lake River to Mud Lake, and then again boomed or rafted and drawn across Mud Lake; and then again broken up and driven down the stream to the Mississippi River. Persons having a contract around Leech Lake, and in that region, will be under the necessity of securing a steamboat or a steam-tug to take in their supplies and take out their logs. Taking the timber at Oak Point and that in Leech Lake region, the timber being of the same quality, if one party could control all the Leech Lake timber, would be at least a dollar per M feet in value in favor of Oak Point. I mean that it would cost \$1 per M feet more to get the timber out of Leech Lake to Minneapolis Boom than to get it from Oak Point. In getting Leech Lake timber to market, would be a long drive, and the water in the Mississippi would get so low, on account of the long drive, that it would be expensive to get the logs down to Minneapolis Boom. In seasons of very low water, I think it would take two years to drive the logs from Leech Lake or its tributaries. If the logs were not got down the first season to Minneapolis Boom, a great many of them would go over the falls of Saint Anthony in the following spring with the ice, without there was preparation made and a boom constructed at Crow-Wing or above. There is no boom in the Mississippi River above the Minneapolis and Rum River Boom Company's boom that will hold any considerable number of logs. Persons logging up in that country would have to construct their own booms if they desire to safely protect their logs. The ice in Leech Lake breaks up from two to four weeks later than it does in the Mississippi River, and you would lose, therefore, from two to four weeks of the best time in which to drive your logs, from what it would be on the Mississippi River.

Interrogatories by Commissioner Smith. Would it be necessary, in order to get out the lumber embraced in the Wilder contract, to construct one or more booms on the Mississippi River; and, if so, at what points, and at what expense?

Answer. I think it would be necessary to construct a boom at Crow-Wing, or above, in order to save the logs from going over the falls. The other logs that are cut upon the Mississippi River and its tributaries, coming in the Mississippi and Rum River Boom Company's boom before the logs embraced in the Wilder contract, that is, on the Leech Lake and

its tributaries, and Cass Lake and Lake Winnebagoish, would fill the Mississippi and Rum River booms full, so that the other logs mentioned would go over the falls if they were to get down the first season; and if they were not driven down the first season, they would go over the falls with ice, when the river broke up the next spring, without there was preparation made for booming them at Crow-Wing or above.

Interrogatory by Commissioner James Smith, jr. You have heard the contract with Mr. Wilder read, giving the terms of his purchase of the timber upon the Leech Lake and other reservations; will you therefore give me your opinion whether, according to the terms of said contract, taking into account the location of the timber, extent of the haul, and the fact of the work having to be done on the reservation, the same is advantageous, and a desirable one for the Indians, in case their pine timber is to be sold, or otherwise? Please give to us the benefit of your opinion, fully.

Answer. I think the price paid by Mr. Wilder is a good price for the timber, and is advantageous to the Indians. In exploring or selecting timber-lands where the timber could be hauled into good water, we usually go three miles back from the stream. If this was Government land, and was in market, and I was sending explorers out to explore the country with a view of buying the land, I should not have them go over two and a half miles from the water; and if the timber was Norway, or an inferior quality of white pine, not over two miles. Rather than to go farther than that, if I wanted pine-lands, I would buy them from parties who had previously bought them from Government. The farther you go from water the greater the expense in hauling the logs. The nearer you can get the timber to water the more trips a team can make in a day. The price that has ranged for logs for the last four or five years, it is not considered desirable for lumbermen to haul logs over two and a half miles without it is an extra quality of timber, and where it can be hauled into good water. In that case they have been hauled three and a half miles, this being the farthest I have ever known of any being hauled on the Upper Mississippi.

Interrogatory of Commissioner James Smith, jr. Under this Wilder contract, you will observe, the timber is to be obtained and paid for from time to time, while a long term of years is given to Mr. Wilder to remove the timber; considering the contract in that respect as well as in others, is the contract, in your opinion, desirable and advantageous to the Indians, or otherwise?

Answer. I think that this contract is an advantageous contract for the Indians. The usual price paid for hay as stumpage on grass is 50 cents per ton, when there is anything paid; it is not customary to pay anything in that part of the country.

Interrogatory by Commissioner James Smith, jr. Mr. Clarke, we refer you to a portion of the contract relating to the size of timber to be cut and quality, &c., to be paid for, and while this involves a mere legal construction of the contract, yet it is supposed that the interpretation of practical lumbermen may be of value, and we desire your understanding of this contract in these particulars.

Answer. My understanding of the contract is, that there could not be any timber cut by the contractor under 14 inches without the contractor paying for it at contract rates. It is usual to have the size stated in the contract, down to which the contractor was to cut his timber; the size ranging from 12 to 14 inches, 25 to 30 feet from the ground.

Upon cross-examination by Judge E. B. Palmer, witness testifies as follows:

Answer. The streams connected with these lakes are very crooked, and therefore increases the distance very much. There is a considerable difference in the quality and value of the timber in this region, covered by the Wilder contract. I would rather pay \$2.50 per M feet for the stumpage, included in this Wilder contract, if I could have the privilege of going in and culling it, than take the whole amount covered by the Wilder contract at \$1 per M. It costs just as much to haul and drive and manufacture common or poor timber as it does extra. I mean by common timber the quality and not the size. Lumber from a common lot of logs would now be worth from \$10 to \$11 per M, and for an extra lot would be worth from \$14 to \$15 per M. There is always a scarcity of the upper grades of lumber. That is what makes the stumpage so high on the choice prices of timber. I have some pine land where the timber will go into Boy River. It would come into Leech Lake, and would have to take the same course that the Leech Lake timber would. It was selected under my direction and with care. My pine on Upper Boy River, I understand, is better in quality than the average of pine around Leech Lake. My pine on an average could be got out with about the same expense as the average of pine on Leech Lake. I would be willing to sell my pine on Boy River, of the sizes named in the Wilder contract, at \$1 per M feet. Fires are frequent in that country. Under a contract for any term of a considerable number of years it would be affected from the frequent occurrence of these fires, and if there is a heavy fire goes through a piece of standing timber, if the timber is not cut within two years it is considered worthless. A heavy fire kills the timber, and the worms get in and destroy it. Where timber is cut or lying loose on the bank, and a fire gets into it, which is not common, it is generally burned up. The usual amount of pine per acre on the Upper Mississippi is from three to six thousand feet; this is called good pine. I don't mean that the whole country will average that amount. I mean to include pine land.

N. P. CLARKE.

Sworn to and subscribed before me this 11th day of December, A. D. 1873.

[SEAL.]

W. S. WILSON,
Notary Public, Ramsey County, Minn.

Mr. N. P. CLARKE, re-examined by the commissioner, testifies as follows:

Interrogatory by Judge Jones. State what you know in reference to a contract made with Merriam for Red Lake and Pembina pine, and whether any offer for the same was made by you.

Answer. I know nothing about the contract except from hearsay. About a year ago last October I heard that the Red Lake pine had been sold to Merriam or Merriman, of Minneapolis, for \$2.50 per M. I thought perhaps there was some money in it, and I would stop the approval of the contract for a few days until I could investigate it. I sent a telegram to the Commissioner of Indian Affairs, Washington, offering \$3 per M for it. Upon making inquiries about the timber, and considering the matter, I concluded I didn't want it, and withdrew my

bid. We consider in bidding for Government contracts that we have the right to withdraw our bid at any time before the contract is awarded.

Interrogatory of Commissioner Jones. State whether you had any conversation or communication with Agent Smith previous to the withdrawal of your bid, in reference to this matter ; and, if so, what it was.

Answer. I did not have any conversation or communication with Agent Smith, or any other party interested in the Red Lake contract, known by me to have any interest, previous to the withdrawal of my bid. I do not know Merriam by sight. He is said to reside at Minneapolis. I am not the party that made the bid for the Oak Point pine.

Upon cross-examination by Judge Palmer, witness testified as follows :

I was not notified that my bid for the Red Lake pine was accepted. I don't know what did become of it. I didn't want it, because I didn't think it was worth the money, and I was satisfied that the \$2.50 offered for it was more than it was worth. The Red Lake pine is situated in the northwestern portion of the State and tributary to Red River. The market is down the Red River to Manitoba and the British possessions. To-day they are selling sawed dimension-lumber at Minneapolis at from \$10 to \$11 per M, and at Winnipeg, Manitoba, from \$25 to \$28 per M. It would probably cost from \$2 to \$3 per M more to haul and drive the average of the Red Lake timber to Winnipeg than it would cost to drive the Leech Lake timber to Minneapolis. In Winnipeg it is paid for in gold, and in Minneapolis, currency. Persons having the Red Lake contract enjoy a partial monopoly of the market.

N. P. CLARKE.

Sworn to and subscribed before me this 11th day of December, A. D. 1873.

[SEAL.]

W. S. WILSON,
Notary Public, Ramsey County, Minnesota.

JAMES WHITEHEAD, being duly sworn on the part of the defense, testified as follows :

I reside at Minneapolis, Minnesota. My age, fifty-three years. I have been lumbering for the last four years near White Oak Point, on the Mississippi River. I am familiar with the country around White Oak Point and Leech Lake. I have been through it occasionally for the last eighteen years. I have lived at White Oak Point from 1867 to 1870 ; I have resided at Leech Lake from 1857 to 1867. I lived on the southwestern shore of Leech Lake. I think the average width of Leech Lake is eight miles, and the average length thirty miles, as it is estimated. I am familiar with Leech Lake River ; it is of sufficient depth of water for navigation, but sluggish, running through rice-bottoms, forms pockets ; we have to stretch a boom across these pockets to keep the logs from running into them. I am familiar with Mud Lake ; the water is very shoal, and a bad place to get logs through : there is no current through the lake ; the bottom is soft mud, not being a pole-bottom ; we have to boom the logs and draw them through.

Question by Judge Palmer. Describe the process by which logs must be taken from Leech Lake through to the Mississippi River, beginning at Leech Lake.

Answer. They have to be boomed in the usual way, by putting a boom around them, a strong boom at the southwest extremity of the

lake, and after the ice goes out they have to be taken across the lake with a capstan or by taking a steamer.

Question. Then, when turned into the river, are they driven singly to Mud Lake ?

Answer. Yes ; and there boomed again, and turned out and run into the Mississippi, as there are no more lakes to go through.

Question. You say they have to be separated and run singly through the river ?

Answer. Yes ; the booming process is carried on in the lakes where there is no current.

Question. Now, what is the difference (in time I mean) between the breaking up of the ice in Leech Lake and in the Mississippi River ?

Answer. From three to four weeks in favor of the river ; the river is open that much sooner.

Question. It disappears from the river that much sooner ?

Answer. Yes.

Question. Have you examined and been through the pine at Leech Lake ?

Answer. Yes.

Question. How was it immediately around Leech Lake ?

Answer. It is some distance from the lake ; it comes down in places, but there is no good pine immediately around the lake ; it is very much the same at Oak Point. The Oak Point reservation will not turn out such first-class lumber as the reservation above.

Question. Does it vary over the reservation ?

Answer. Yes.

Question. Did you make a bid for the Oak Point pine ?

Answer. Yes.

Question. That included in the Clarke contract ?

Answer. Yes.

Question. At about the same time that Clarke did ?

Answer. Yes ; and in answer to the advertisement in the Minneapolis Tribune.

Question. Did you make that upon an examination of the pine ?

Answer. Yes ; I had been over the ground previously.

Question. What was your bid ?

Answer. I think it was \$1.25 or \$1.26 per thousand feet.

Question. Do you know of other bids being made ?

Answer. I did not at that time.

Question. Do you now understand that that was so ?

Answer. Yes ; by hearsay, that's all.

Question. You understand that there were other bids ?

Answer. Yes.

Question. Have you ever made any bid for this ?

Answer. No.

Question. What was a fair price for the pine covered by the Clarke contract ?

Answer. I think that at that time my bid was a fair price. There was a portion of that (a large portion) which had to be boomed through a lake seven miles long.

Question. Have you read the contract called the "Wilder contract ?"

Answer. Yes.

Question. Are you acquainted with the pine embraced in that contract ?

Answer. Yes.

Question. Its quality and extent ?

Answer. Yes.

Question. What, in your judgment, is the fair value of that pine per thousand feet under that contract?

Answer. At the time I bid on the White Oak Point I should have been willing to extend that bid to the whole reservation and made my bid with that view, but I expected to have two years to make my first payment, so as to get the lumber to market.

Question. Taking the contract just as it stands with reference to payments and with reference to paying so much for hay, what do you think of it?

Answer. I can only judge for myself. I am a lumberman, and I should not be willing to give any more, and don't think I should take the contract off Mr. Wilder's hands at the present time.

Question. Does it require any longer time to take pine out at Leech Lake than at White Oak Point?

Answer. Yes; from the fact that the lake breaks up so much later.

Question. How thick is the ice in winter there, generally?

Answer. It is over two feet on the average. I have seen it three feet thick.

Question. Does the ice in spring go out with any current?

Answer. No; it remains there till broken up by the wind. I have kept a record of the opening of the lake for ten years; it opens from the 10th to 15th May.

Question. What is the usual time for logs starting to go down the Mississippi?

Answer. We usually start about from 15th to 20th April.

Question. How long before ice breaks up in the lakes is that?

Answer. About three weeks.

Question. How long would it take to get logs from the lake to the river?

Answer. If you had a boat it ought to be taken from the head of this lake thirty miles in thirty-six hours, and turned right into the river.

Question. Then as to the river?

Answer. It is questionable how long that would take. The river branches off in places and loses itself in pockets; it is tedious work in these rice-bottoms.

Question. In getting logs out after high water in the spring, where would you put them?

Answer. Above Pokegama Falls there is a good chance. I know of no other except at Brainard, and that is not calculated to hold any quantity.

Question. Would it be necessary for Mr. Wilder to make a boom?

Answer. Yes, during winter, to stow the lumber. Brainard is not available for general purposes. The highest boom available is Coon Creek. That is the place they store them at and run them down in small quantities to Minneapolis.

Question. Is there any danger of the Leech Lake pine taking an additional season to get it out?

Answer. Yes. I don't think, on the average, the lumber could go through in one season. Sometimes it could, but generally not.

Question. The case of supplies; is that different at Leech Lake and Oak Point?

Answer. Very little. There would be a little difference. At Leech Lake a great deal would be hauled during winter; the difference would

not be much. We were reckoning on that, that it would be 10 to 15 cents on the 100 difference.

Question. The cost of labor ; how is that ?

Answer. That would make a difference ; and, in fact, the waste in the lumber, especially in Norway pine, the blackening of the sap, deprives it of value very much. There is quite a loss that way. The white pine is a thinner sap.

Question. Is there much Norway pine ?

Answer. I don't think the majority is Norway—probably about one-third ; I think on the Winnebagoishish more than a third.

Question. Have you any idea as to the difference in time in getting lumber from Leech Lake and White Oak Point ?

Answer. It would take about sixteen days longer. They cannot commence there as soon as on the river.

Question. What would you have to pay men for taking care of the logs ?

Answer. I could not say what they charge for boomage ; they charge so much per thousand feet.

Question. Would it be necessary to require a steamer to carry out such a contract as Wilder's ?

Answer. Certainly ; it would be cheaper.

Question. Taking all these things into consideration, what would be the difference in cost per thousand feet of lumber, taken from Leech Lake and from White Oak Point ?

Answer. I had made an estimate of the actual cost, and reckoned the difference would be about 75 cents per thousand.

Question. Taking the matter in a practical way, and considering the danger from burning, and so forth, what would be the fair difference of cost altogether ?

Answer. It would be pretty hard to estimate, but I should put it at \$1, about, altogether.

Question. State whether or not it is usual to put clauses in contracts limiting the size to be cut.

Answer. Yes ; similar to the clause in the Wilder contract. I have had such contracts.

Question. And if any timber is to be cut below that size would it be scaled and paid for ?

Answer. Yes.

Question. In your understanding as a practical lumberman could he take any of that pine without paying for it ?

Answer. I don't think he could. The scaler generally comes, who is authorized to do the scaling, and it depends upon him. If he understands that he is not to scale anything under a certain size, that is a different thing. I could not see anything in the contract that would lead me to suppose that Wilder was entitled to anything under a certain size. It is out of his contract, and he has no more right to do so than any other person.

Question. What was the contract for hay ?

Answer. One dollar per ton, under the contract.

Question. What was the value of hay there ?

Answer. It was the first time I ever knew of hay being paid for, but I have heard of these matters at 50 cents per ton by those who entered land.

Question. Have you ever heard of hay being contracted for at more than that ?

Answer. No.

Question. Is there any difference between lumbering on the Indian reservations and other lands, with respect to safety, &c.?

Answer. I think there is a little exaction by Indians; but I don't know that there is much danger, or a great deal more than on other lands.

Question. How is it with Leech Lake or Pillager Indians as to being exacting?

Answer. They are a little rude sometimes; a little more so than other Chippewas.

Question. What is the present feeling of the Indians?

Answer. Pretty quiet at present. I can only tell by talking to them. I saw only one, to talk to, since this contract was made. He wanted to know if their pine had been sold. I said I thought so. He complained that he thought that they ought to have been consulted. He knew what the price was. He had that pat. At that time he said to me that they had made up their minds that they would not take their pay till they were consulted on the pine matter; but they took their pay.

Question. Has any complaint been made to you with regard to the price paid?

By Mr. Commissioner JONES:

Question. I understand you to say that when you made your bid of \$1.25 per thousand feet you would have been willing at that time to have made the same bid for all the pine covered by the Wilder contract?

Answer. Yes.

Question. Will you state what circumstances have since occurred to change your opinion?

Answer. The hard times and having to pay money in advance. It would be almost impossible for a common operator to pay under two years. If I could have two years to go into market I should still make an offer of that kind.

Question. Have you the same opinion now that you had at that time with regard to the value of the pine at Oak Point and on the balance of the reservations covered by the Wilder contract?

Answer. Yes, about the same. The quality was all I could judge from, and the quantity.

Question. What is the difference of the value of the pine at Oak Point covered by the contract and the balance of the pine in the reservation covered by the Wilder contract?

Answer. I always regarded the Leech Lake pine as of much better quality. At the time I made my bid, I thought it was enough better to make up the difference in other respects.

Question. Is that still your opinion?

Answer. Yes.

Question. I understand you to say that in the average of years it would be doubtful whether you could get the pine out the same year?

Answer. Yes, but the fact of the cost of driving would be overcome by the quality of the timber; but we cannot account for its coming down the same season. If it could be driven it would be quite as profitable as the other.

Question. Do you take into consideration the delay of two years in speaking of profits?

Answer. No; that we cannot account for. My estimate was based upon the supposition that it could be brought down the first year.

Question. What would you say as to the difference between pine on the two locations, if you consider that you got it out the first year, and another year doubtful whether you could or not?

Answer. It would make a difference in the value of \$1.50 on the thousand. Perhaps one-quarter is Norway pine, and by lying in the water over one season it would be damaged \$1.50 per thousand. It would affect the value of the timber, and then there is the time of delay in realizing.

Question. In reference to the injury to the lumber by water, what would be the difference in the value per thousand feet, compared with that got out the first year?

Answer. To a small operator like me it would make a difference of \$2 on the thousand.

By Mr. Commissioner SMITH :

Question. Give the percentage.

Answer. It would diminish the value of the lumber, and the disappointment in realizing would make the difference in value of \$2 per thousand feet.

By Commissioner JONES :

Question. Would that cover the difference, allowing for interest on capital?

Answer. I should think so; but the calculation could be made better by pencil and with time.

Question. You had a conversation with an Indian with reference to this matter; who was that?

Answer. He was a Bear Island Pillager.

Question. Was he a chief?

Answer. No; don't think I could state his name so that you could find out.

Question. When was this conversation?

Answer. Just shortly before the payment at Leech Lake; don't know the date; it was this last season. I was passing through the country.

Question. What did he say?

Answer. He asked me first if I had heard of the sale of their timber. I said "Yes." He said, "We are dissatisfied." I asked why. He said there was nothing said to them about it. I asked if he knew how much was to be realized. He said yes; he had that very pat. He did not raise any objection to that, but he said they had not been consulted, and did not know what was to be done with the proceeds. I asked him what they intended to do about it. He said "We won't take our pay until we have satisfaction about it."

Question. Was he speaking in English?

Answer. No; but I understand Chippewa.

Question. Did you live there at that time?

Answer. No; I was passing through the country, looking at lands.

Question. Do you consider that you have had sufficient experience as a lumberman to have sufficient knowledge to be able to say whether this contract, called the Wilder contract, was a fair one to make and advantageous to the Indians?

Answer. I can give my opinion for what it is worth, but I would sooner not answer the question. Men who have conducted lumbering longer than I have should know more about it; but I said, as to the contract, that I thought the Indians were doing very well by it.

Commissioner Jones here read the terms of the contract to the witness.

WITNESS. That is how I understood the contract.

Question. As far as you have the means of judging, what do you say as to its being a fair contract so far as the Indians are concerned?

Answer. I think it is as well as they could do. I felt when I first read it that the stumpage might be sold higher, but come to consider the thing all over it is a large contract, and is so liable to suffer by fire after the first year's cutting—I think, upon the whole, it is a pretty good bargain for the Indians. It is liable to burn through as soon as cut.

By Judge PALMER :

Question. What is the fact as to fire running through a country of that kind ?

Answer. I have witnessed the fact in many cases. If lumber is cut within two years if the fire runs through it it is about valueless. In 1865 in that country a large proportion of timber on Boise River was burned.

Question. Do you know of any sales of timber in that vicinity ?

Answer. I don't recollect of any now.

JAMES WHITEHEAD.

Sworn to and subscribed before me this 12th day of December, A. D. 1873.

WILLIAM S. WILSON,
Notary Public, Ramsey County, Minnesota.

WILLIAM P. ANKENEY, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. What is your name, residence, and occupation ?

Answer. William P. Ankeney ; Minneapolis ; lumberman.

Question. How long have you been engaged in lumbering ?

Answer. I believe twelve years next spring. I have been pretty extensively engaged in it. I commenced with from one to three millions, up to seventeen millions two years ago, and about ten millions last year ?

Question. Have you the means of knowing the value of the timber (stumpage) included in the Wilder contract ?

Answer. No ; I have not the most distant idea of it.

Question. It is pine timber on Leech Lake reservation, and within four miles of any navigable stream ; to cut all over 14 inches in diameter, 24 feet from the ground. That would I suppose go into the Red River ?

(Map shown to witness by Judge Jones.)

Witness continues : I have never been on the ground ; what I know about it would be more hearsay than a conclusion of judgment. Of pine land in that country there is a good deal worth probably \$3 and I presume a good deal not worth \$1 per thousand. I mean that there could be some selections of fine quality. A man could go and pick out pine worth \$3. If he has to take Norway I think that would make \$2 difference, and probably it would be better to pay \$3 for the choice.

Question. If you had to go as much as four miles from a navigable stream what difference would that make ?

Answer. It would make considerable difference ; it would be attended with considerable expense. It costs about 75 cents per mile more. Lumber within one mile can be hauled for 75 cents, and if you go back four miles you must add at least \$1.50 to it.

Question. What would be the difference in the value of pine that you could get out the first year and that which you could not get out until two years?

Answer. Probably \$1 per thousand. It would be a question of interest on money. It might be \$2. It would be a guess. I could not say exactly. It would be attended with additional expense in driving, and, of course, interest on the investment lying over.

Question. How with reference to the value of the lumber?

Answer. I think there would be injury to the logs; there would be sap-stain. We don't regard that as being so valuable as the other; don't know that this would be so in one year, or but slightly; probably not at all.

Question. It is claimed that Leech Lake is frozen up during winter two or three feet thick, and that some of it could not be towed through that year; what difference would that make?

Answer. I think that any delay of that kind would be attended with considerable expense.

Question. Have you ever had any experience in that way?

Answer. No, not actually; but we have had contracts where lumber would have to be towed through smaller lakes. In small lakes it is carried across by ropes and anchors. We regard all these things as additional expenses; and if we have one or more lakes to cross it is worth more.

Question. What is done with the timber, and how is it shaped after it is rafted?

Answer. I have no actual experience, but I think the lakes are boomed and they are carried across four or five thousand feet at a time. They have to wait for favorable winds, and it is not an easy job, and is one that lumbermen don't care about doing. They tow across at night sometimes, when the wind is favorable. I judge by hearsay that they have sometimes to lie by a week or two on account of unfavorable winds. I never was at Leech Lake, and don't know whether it is rough or smooth, but I don't think it would be an easy matter to get logs across that lake. It would require a strong boom.

Question. Can you state anything else with reference to this contract?

Answer. I don't know that I know the price. The price is \$1.15 per thousand feet, the contract running ten years.

(Here Commissioner Jones recited the terms of the contract.)

Witness resumes: From what I know of the country there it seems to be a fair price on the part of the Government. In that kind of contract the probabilities are that the stumpage would be worth more ten years hence. I think it would be a favorable contract for one or two years. As it stands open for a series of years I think it would be worth more, but I may be mistaken.

Question. You understand that \$20,000 are to be paid each year?

Answer. Then I don't think I should make the contract at \$1.15; it might pay or not. I should not think of taking it unless there was money in it. There was always great expense in new countries like Leech Lake; it is attended with considerable expense. I have had considerable experience of new countries; those who come after, of course, receive the benefit.

By Judge PALMER:

Question. Is not the risk greater in going upon Indian reservations than it would be upon free land?

Answer. I should so regard it. Indians are not desirable people to

have around you ; they are apt to take things that don't belong to them ; they are a nuisance.

Question. How about fires ? I don't mean from maliciousness, but as to fires generally in such places ?

Answer. I should prefer to be where Indians were not in the habit of coming around.

Question. What is the effect of fire going through a country ?

Answer. If fire runs through, it is better to cut very soon ; if you don't, the timber decays, and if left standing for some years, any strong wind is very apt to throw it down and it becomes worm-eaten. It would be hardly salable then ; it would be depreciated considerably.

Question. How about booms ?

Answer. I think it would be necessary to have a boom on the lake. The Leech Lake River may be such a kind of river that the logs would remain there. It would be necessary to keep them together, as high water would probably carry them out, otherwise.

Question. There is a provision in the contract that Wilder is to pay \$1 per ton for hay ; how about that ?

Answer. I think I have been in the habit of paying \$6 per ton for hay ; I think I have paid as low as \$5.

Question. Are you able to state what the stumpage of hay is ?

Answer. No.

Question. In a contract of this kind how much grass would be required to cut 20,000,000 feet of lumber each year ?

Answer. I think they would want several hundred tons ; it would depend upon the distance they would have to haul ; for four miles they would require an additional number of horses and oxen. To cut 20,000,000 of stumpage I should say from two hundred to three hundred tons of hay ; that should be cut in August, not later ; should be put up where cut and hauled during the winter.

Question. Would that be attended with some danger as to burning ?

Answer. Yes.

Question. Considering that feature of the contract, and the feature that requires pine to be cut at a distance of four miles from streams, what do you say as to \$1.15 per thousand feet being a fair price ?

Answer. My impression is that it would be, taking all qualities of timber. For one or two, or three years, I would not want to contract, but for ten years it would be different. We expect that lumber will be higher in ten years ; that is the general experience.

Question. You would prefer your choice in selection at \$3 per thousand ?

Answer. Yes.

Question. Do you know anything of this Clarke contract ?

Answer. Nothing particularly. I think I signed a paper for him, but I have no knowledge of that particularly ; don't remember now ; but my impression is that it stated my judgment at the time.

Question. Where would supplies come from to them ?

Answer. I think from here, or from Duluth. By railroad they could reach Mud Lake, and from there they would have to be taken by team.

Question. How near to this Leech Lake region is there a cultivated country, from which provisions could be taken ?

Answer. Nothing nearer than Saint Cloud or Ottertail. That is a distance of about two hundred miles. I should think the best way would be to take a steamer with the party.

Question. Could lumbering be carried on without hay ?

Answer. No ; if they had nothing better they would have to cut the frozen grass ; the loss of hay would be a very material loss.

JOHN S. PILLSBURY, having been duly sworn, testified as follows:

By Commissioner SMITH:

Question. Please to state your residence.

Answer. Minneapolis.

Question. Are you engaged to any considerable extent in lumbering?

Answer. Somewhat; not to much extent; but my business leads me somewhat in that direction. I have more or less dealings with lumbermen, furnishing supplies. That is a large amount of my business.

Question. Have you been on the Upper Mississippi near White Oak Point on Leech Lake?

Answer. I have never been in the pine regions.

Question. Do you know the usual distance that lumbermen haul their logs to streams—the distance they cut from the streams?

Answer. I know from their talk their opinions, and from property that I have. The calculation is generally from one to three miles that timber is hauled for lumbering purposes.

Question. Have you heard read the contract called the Wilder contract for the Leech Lake timber?

Answer. No.

Question. Have you any knowledge of the extent of country included in the Leech Lake and three other reservations, viz, White Oak Point, Winebagoshish and Mississippi Chippewas?

Answer. I have had it pointed out to me, but never took sufficient pains to ascertain the extent covered by that contract.

(Map shown to witness, and the extent of country covered by the Wilder contract pointed out.)

Question. Do you know enough about it to give an opinion?

Answer. I might state in my own way that there were some parties at each place who made an examination of those lands for the purpose of purchasing the stumpage, and I was asked by them if I would like to take an interest in it, and I understood that it would take two years to get the lumber to the Mississippi; and after hearing their reports I declined, because I did not think it would be profitable to enter into the speculation. If they could have got the lumber to the Mississippi the first year I might have entered into it.

Question. This contract between Wilder and the Indian Department provides for the purchase by Wilder of all the timber of this entire reservation, including the timber at Oak Point and all the timber within four miles of any stream of any magnitude, \$10,000 to be paid the first year and \$20,000 each year afterward to cut all the timber—all the pine and cedar timber—on this reservation, and to pay \$1.15 per thousand feet; to cut all above 14 inches, not being bound to cut under that size, but if he does that is to be paid for in the same way. What is your judgment as to whether this contract altogether—(probably two hundred millions might be cut,) taking everything into consideration as to supplies and other matters that a business man should take into consideration—what do you think of the contract?

Answer. As I understand, the timber would have to be hauled from one to four miles. As I before said, I understood that most of the timber cut on this reservation would require two seasons; that is, before we could get it to our booms, and I refused to have anything to do with any contract that would require two seasons to get logs to our booms. The price, I understand, is \$1.15 per thousand, but the contract offered to me was at \$1. My opinion would be, however, that, taking it at \$1.15, and supposing it to take two years to place it in the booms, would be a

good, fair price; but I am not a practical lumberman. If I bought stumpage in this way it would be to make money.

Question. Do you know enough about the business to know whether it would be necessary to procure a steamboat to convey the logs down the lake?

Answer. I understood from Mr. Washburn lumbermen differed, but that in his opinion it would; but whether it could be driven I have no personal knowledge.

By Judge PALMER:

Question. Do you know anything about the price of grass or hay there?

Answer. I do not.

Question. Do you know whether it is usual to limit the size of the timber cut?

Answer. Yes; I understand that they generally cut it up to 14 inches; some cut it at 16 inches; some at 12.

Question. But all paid for that are cut?

Answer. Yes.

Question. When this proposition was made to you was there an examination made by those gentlemen?

Answer. I understood that there had been.

Question. And your information was the result of that exploration?

Answer. Yes.

Question. Were you one of certain parties who signed a paper for F. P. Clarke, saying what, in your judgment, was a fair price for his contract?

Answer. I was asked to sign it, and I think I did, with others.

Question. That paper expressed your fair judgment?

Answer. Yes; so far as I was informed as to the value of the pine.

Question. Do you remember what that price was?

Answer. I think it was for something over \$1.15; my impression is that it was; could not exactly say the sum now. It was for the timber lying along the Mississippi.

By Commissioner SMITH:

Question. How long have you lived in Minneapolis?

Answer. In Minneapolis and St. Anthony nineteen years.

WM. P. ALLEN, having been duly sworn, testified as follows:

By Commissioner JONES:

Question. State your name, age, residence, and occupation.

Answer. I am thirty years of age; my name is Wm. P. Allen, and I live at Minneapolis. I am a Government surveyor and explorer.

Question. Have you any knowledge of the character of the timber in the Leech Lake reservation?

Answer. I have.

Question. Have you been there?

Answer. Yes.

Question. Over what portion of it?

Answer. Nearly the whole of it. I have been through all that country, exploring.

Question. Do you know what proportion of that reservation was in-

cluded in the contract with Clarke, called "the White Oak Point contract?"

Answer. No; I know where White Oak Point is.

Question. State whether the timber there, at White Oak Point, is worth more or less than the timber on the whole reservation?

Answer. It would be worth more, everything considered.

Question. Are you familiar with the timber round Winebagoshish Lake?

Answer. No; only that portion in the White Oak reservation.

Question. Have you seen the so-called "Wilder contract?"

Answer. No.

(Here commissioner recited the terms of the Wilder contract, and proceeded in the examination, as follows:)

Question. Have you the means of forming an opinion as to whether that contract would be favorable or otherwise for the Indians?

Answer. Yes; I can form a judgment on the matter. I think it would be favorable to the Indians.

Question. What is your reason for so thinking?

Answer. I know nothing about other sales, but I know what timber is considered worth at different points on the Mississippi, and I know something of the comparative value of the other timber. The stumpage on the Mississippi, (there has been none cut at Leech Lake yet, as far as I know,) below the Leech Lake, is worth from \$1 to \$3 per thousand. I mean lower down the Mississippi River, and depending upon the situation and quality of the timber.

Question. Do you say that this contract with Wilder is as good a contract as could have been made for the Indians, or not?

Answer. From my experience in locating timber, and examining it, I should not think it is worth more than Wilder has paid for it, because it is an inferior kind of timber, one-third to one-half being Norway pine. The country about Leech Lake is very hilly. It is very difficult to make roads through it, and Leech Lake itself is very boisterous, and a bad lake to drive on. The Leech Lake River would be fair if kept boomed. There is Mud Lake to go through, which is not a good lake for driving purposes. No lumbering has yet been done from Leech Lake, so far as I know, so that I could not say what would be the expense of driving; but, of course, the farther you go up the more expensive it is.

Question. Do you know of any other matters bearing upon the value of this contract?

Answer. No.

Question. Do you know anything of the liability of a party to have his loss detained more than one season?

Answer. No; unless it was an unusually bad season, or by accident.

Question. What would be the best means of getting logs through Leech Lake—by steam-power?

Answer. Yes; I think so. I don't think they could be got through else. I have crossed the lake perhaps a dozen times during this summer, and could not get across unless there was a strong wind blowing, which would make it risky driving.

Question. What would be the difference in the value of the stumpage between two contracts—one for a four miles' haul and the other for two miles?

Answer. I don't want to give an opinion on that point. I am not a lumberman.

T. B. WALKER, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. State your name, age, residence, and occupation.

Answer. My name is T. B. Walker; my age is thirty-three years, and I live in Minneapolis. I am a Government surveyor.

Question. Have you been engaged in the lumbering business?

Answer. Yes; more or less for several years.

Question. Have you any knowledge of the character of the timber on the Leech Lake reservation?

Answer. I have a general knowledge of it.

Question. Have you made any explorations there?

Answer. I have made explorations all through that country.

Question. Have you the means of stating what is the difference between the timber at White Oak Point and round Winebagoshish Lake and the balance of the timber on that reservation?

Answer. There is a difference in the value, in the extent, and in the facilities for getting the timber to market, of about 75 cents per thousand feet.

Question. State what is the reason for that difference.

Answer. The reason is that in all those lakes, especially Lake Pokegama, we pay \$1.50 per thousand feet for getting timber to the mouth of the lake, and 60 cents—from 50 to 75 cents—per thousand for driving from the mouth of Pokegama Lake, and that lake is ten to twelve days earlier in breaking up than Leech Lake.

Question. In speaking of the difference in price do you speak of what has been paid; to whose practice do you refer?

Answer. My own practice. I have had logs driven every year for five years, I think.

Question. From what points have you driven them?

Answer. From Pokegama Lake and the Mississippi River, from about the outlet of the lake.

Question. How would the expense from Leech Lake compare with that from Pokegama?

Answer. If they could get them through from Leech Lake in one season, it would cost \$1.75 per thousand feet, and if not for two years, \$2.50.

Question. What is your judgment as to the liability of a man being compelled to hold them over one season?

Answer. I think in ordinary seasons they can be brought down in one season by steam-power. There has been no lumbering upon that lake, but I think it could be brought through. The river about Saint Cloud is very low at times, and I think they might be caught there.

(Judge Jones having read to the witness the material portions of the Wilder contract, asked the following questions:)

Question. Have you means of forming an opinion as to whether that would be an advantageous contract for the Indians?

Answer. If the contract were carried out in good faith, I think it would be as good as could be obtained from lumbermen in Minnesota.

Question. Compared with a contract for all the pine—without cedar—within two miles of driving water at White Oak Point reservation, at \$1.35 per thousand feet, how would it be for the Indians?

Answer. If the quality of the timber is the same, I think it would be in favor of the Wilder contract at \$1.15; *i. e.*, I think that would be best for the Indians.

Question. What is your idea of the quality of the pine at White Oak Point and Leech Lake, respectively?

Answer. I think, taking the whole reservation together, the pine at Leech Lake would average better in quality than the White Oak Point pine.

Question. How does Winebagoshish pine compare with White Oak pine?

Answer. That is better, as compared with the balance of the pine: I think is better. The pine around Leech Lake is a mixture of white pine and other wood of inferior quality.

Question. State the facilities for getting out Winnebagoishish pine.

Answer. It can be got out more readily than Leech Lake pine: but there is not much difference. Steam must be used to get it out.

Question. What is the custom with respect to grass—as to the amount of payment per ton?

Answer. I have paid in several years about 25 cents per ton in Minnesota. That was about White Oak Point and Pokegama; and bears about the same relation to the pine at Pokegama that the grass in Wilder's contract bears to the pine at Leech Lake. I believe that, speaking generally, they go and cut it without any payment. There are some exceptions.

Question. Have you been exploring much?

Answer. I have been exploring for eight or ten years, more extensively than all the other explorers in the State.

Question. You have said that this would be an advantageous contract for the Indians, if carried out in good faith. Do you know the character of Wilder for responsibility?

Answer. I have always heard that he was a very responsible man. I have never spoken to him, but I have always heard he was a very reliable man.

Cross-examined by Judge PALMER:

Question. Leech Lake is considerably larger than Lake Winnebagoishish?

Answer. Yes; and it would take longer to get pine through, and when you get to the Leech Lake River you would have to separate the timber.

Question. What do you know about Mud Lake?

Answer. There is no danger of considerable trouble there. I came through it once or twice—not taking logs. Leech Lake River is a good stream, by putting in a few booms.

Question. Would it be necessary to have a steamboat to carry out the Wilder contract?

Answer. They might get along without, but it would be cheaper to have it. That would cost several thousand dollars, I think.

Question. How much later does Pokegama Lake open than the river?

Answer. I think about three weeks, and Leech Lake about ten days later than Pokegama Lake.

Question. You have to pay extra for taking logs from the end of Pokegama Lake?

Answer. We have to pay \$1.50 for taking them through Pokegama Lake, and about 60 cents from the mouth; a difference of 80 cents, say.

Question. Considering the distance and the time when the logs come out, how much additional difference would there be from Leech Lake?

Answer. The most convenient timber at Leech Lake would be, say, 75 cents more than the White Oak Point timber, and that from other streams to go into Leech Lake \$1 to \$1.25 difference, and in some cases more than that.

Question. What is the usual haul, regarded as a favorable haul, as to limit?

Answer. In my experience, and I had had a good deal, in some cases as much as four miles; beyond that I let it go.

Question. What is the difference in expense in lumber that you only haul two miles and that you haul more than that?

Answer. Fifty cents per thousand per mile; that at least. It is more than twice as hard to get a four miles road as it is to get a two miles road.

Question. How often have you to make distinct roads?

Answer. That would depend upon circumstances; perhaps a mile to half a mile each side of the main road. Beyond that we should make a distinct road.

Question. How would it be about holding the logs coming down Leech Lake?

Answer. There should be a boom on the Mississippi River.

Question. Does the Mississippi get very low occasionally?

Answer. It does, late in the season. That makes extra expense getting the logs over the rapids.

Question. The Wilder contract calls for the cutting of twenty millions of feet each year. Would there be a difficulty, according to your experience, in getting that quantity down?

Answer. I don't think there would be. He could as readily bring twenty millions as any other amount so far as that is concerned.

Question. With reference to the stage of water, would not the quantity of logs be material?

Answer. No; where there are a great many logs there are a great many men.

Question. Would the cost of labor be greater late than early in the season?

Answer. I don't think so; never paid any attention to that much.

Question. Is there any danger on Indian reservations greater than on other land?

Answer. There would be much, from the fact that the Indians are troublesome and expensive to have around.

Question. What is the effect of fire running through large bodies of pine?

Answer. Of course it injures it, if not taken off immediately the year that it burns. If taken off two or three years after it is not worth handling. We don't use any of that.

Question. When pine remains over one season in the water what effect has that?

Answer. I don't know of any particular effect. We would just as soon have it remain over in the water as not.

Question. Is there a liability to fire when hay is cut and stacked?

Answer. Yes; often we have it burned.

Question. Is hay necessary to successful logging operations?

Answer. Yes; you would have to come home if it was burned; if it was burned it would practically suspend operations till next winter.

Question. Taking the quality of the pine at Leech Lake into consideration, together with the expense of getting it out and comparing it in every respect with the White Oak Point pine, what would be the fair difference in making bids for the pine?

Answer. I think the pine as advertised by Mr. Smith at White Oak Point would be worth 75 cents per thousand more than the pine under the Wilder contract. In that estimate I consider the quality of the pine.

T. B. WALKER was here recalled and testified as follows, under cross-examination :

Question by Judge PALMER. What is called the "Clarke contract," for Oak Point pine and that called the "Wilder contract," for the whole reservation each of these contracts contains a provision by virtue of which the contractor is not bound to pay for pine below certain dimensions. Under such a contract do you think you would be entitled to take pine below those dimensions without paying for it?

Answer. Certainly not. That clause is put into nearly all the contracts made at Minneapolis. I made two contracts at Minneapolis within the last month containing this very clause. All that he cut is paid for. That is the general understanding. The understanding is that it ought not to be cut under a certain size, because in a few years it will increase in size and be of more value.

Question. Has any one in your experience——

Commissioner Jones, anticipating the nature of the question, here stated to counsel that the court thought the question about to be put unnecessary or inexpedient.

Question not pressed by counsel.

JOHN DANE HOWARD, having been duly sworn, testified as follows :

By Commissioner SMITH :

Question. What is your name ?

Answer. John Dane Howard.

Question. Where do you live, and what is your age ?

Answer. I reside at Du Luth ; I am fifty-nine years old.

Question. Have you been engaged in milling and lumbering ; and, if so, how long ?

Answer. Yes ; for the last seventeen or eighteen years.

Question. Where ?

Answer. At Stony Point, Oneoto, Superior, and Du Luth.

Question. In running mills at those points ?

Answer. Yes, at Stony Point and Du Luth.

Question. Where have your lumbering operations been principally ?

Answer. I had one at Pokegama, and in Saint Louis Bay, and Superior Bay.

Question. How far can lumber be profitably hauled in order to reach a logging stream ?

Answer. That would depend upon the price of the lumber. We don't expect to haul above a mile or a mile and a half at the present price of lumber.

Question. Have you within the last two years purchased logs upon those streams ?

Answer. Yes.

Question. About how much—stumpage, I mean ?

Answer. Could not say exactly ; perhaps 200,000 or 300,000 a year. I cut principally on my own lands.

Question. What is the price that you paid ?

Answer. I paid about \$1 per thousand feet for stumpage, when it was to be hauled one mile.

Question. A mile from what streams ?

Answer. Pokegama Bay. I have usually bought so much cheaper for greater hauls.

Question. Are you acquainted to any extent with lumbering on the Upper Mississippi?

Answer. No.

Question. Do you know what would be the fair value for what we call here the "stumpage of the grass;" that is per ton of grass for lumbering purposes in that region?

Answer. I could not say very well; it would depend upon the locality, and what it might be worth at the place. Where I have been lumbering I have not bought hay. I have meadows of my own. I should think about \$2 per ton. It depends upon the demand for the hay. When I say \$2 per ton, I meant for hay near Du Luth Bay. At Rice Lake and other places I have meadows from which I have given the hay away; that is seventeen miles from Vermillion Lake. I have never lumbered on the Mississippi.

Question. Your market for lumber is where?

Answer. My market is on the Northern Pacific, and the mines of Lake Superior. I have not sent any to Chicago of any consequence. Two years ago I sent a cargo, but it did not pay.

Question. With reference to contracts for stumpage, there are provisions for the dimensions of the timber to be cut?

Answer. Yes; we take all that is required by us down to 12 inches. Those provisions are in any contracts where I have been lumbering—to cut down to 12 inches, except in places where they don't cut down so low.

The commission adjourned to till 9 o'clock on Friday, 12th December.

F. P. CLARKE appeared in response of the summons of the commissioners, and as he seemed disinclined to give testimony, he was interrogated by the commissioners as follows:

By Commissioner JONES:

Question. Will you be sworn, Mr. Clarke?

Answer. Well, I don't know what to say.

Commissioner SMITH. We don't want you to say anything except what you know.

WITNESS. Do you want me to tell you that?

Mr. SMITH. Yes.

Judge JONES. Why do you hesitate about being sworn, Mr. Clarke?

WITNESS. Well, the reason is that I know nothing of my own knowledge. I have heard different persons say something; that is all. I don't know anything of my own knowledge.

Judge JONES. If you are sworn, and you don't wish to answer questions, that will be another matter.

Commissioner SMITH. We would like you to say anything you know of this case, and I don't think you, as a good citizen, ought to object. It appears to me that you should not mind what is said by newspapers or by any other persons. If a man skulks out of an examination, because they say we have no power to send for witnesses, it is doing an injury to society; and from what I know of you, I don't think you will place yourself in that position. I don't think there is any man in this community who believes that the commission desire him to suppress facts.

WITNESS. I was asked my reasons for not being sworn, and I replied that I did not know anything except what I had heard.

Mr. JENNINGS. If you think we want——

WITNESS. I don't think this, that, or the other.

Commissioner SMITH. You can state what you know, and let others take the consequences. If you know anything that can enlighten the commission, why state it, as a good citizen.

WITNESS. Well, I will state anything that I know.

—

F. P. CLARKE, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. State your name, age, and place of residence.

Answer. F. P. Clarke is my name. I am forty-five years of age, and I live at Minneapolis, Hennepin County, Minnesota.

Question. What is your occupation ?

Answer. Lumbering.

Question. Are you acquainted with the respondent, E. P. Smith ?

Answer. Yes.

Question. State whether you made an agreement with him for the purchase of some pine, in 1872.

Answer. I did.

Question. What pine was embraced in that arrangement ?

Answer. It was in the White Oak reservation.

Question. How much was it estimated to be ?

Answer. I don't know that there was any estimate made.

Question. Are you familiar with the timber in that country ?

Answer. Yes.

Question. State, whether, in your judgment, the price mentioned in that contract was fair, or otherwise.

Answer. Yes; I consider it fair.

Question. Where was the contract made ?

Answer. In Minneapolis.

Question. State the circumstances with reference to that contract being set aside, as far as you know.

Answer. With reference to its being set aside, I don't know anything. All I know is that I never got it; don't know why, except that I got a telegram from Agent Smith, saying the Indians went back on it; don't know what date I got the telegram. I did not do anything as to that.

Question. Did you make any further inquiry about it ?

Answer. I never went to any one that had anything to do with it; never spoke to Mr. Smith about it; never saw him to speak to till to-day in this room; that is, since I got this telegram. I think I have not spoken to him since.

Question. Did you know that the contract was subject to the approval of the Commissioner of Indian Affairs ?

Answer. Yes.

Question. Did you ever write to him about it ?

Answer. There was a man there last winter—Mr. Dana King—who tried to find out about it.

Question. You did not make any application to have the contract approved ?

Answer. I did not expect it was necessary. Mr. Smith expected, and I think I understood him to say, that he would send it on there. There were two copies of the contract, and he said he had sent them both—if there were two.

Question. Did you ever make any inquiry whether the Indians had disavowed Mr. Smith's authority in the contract?

Answer. Yes; I sent a man up there.

Question. Whom did you inquire of?

Answer. I sent a man named Ben Stansfield up there to make inquiry.

Question. When was this?

Answer. I could not give the date; I think it was in the month of October.

Question. What is the name of this man?

Answer. Ben Stansfield. He lives in Minneapolis.

Question. You don't know the result of that inquiry, except from what he told you?

Answer. No.

Question. Have you been up there to examine the country?

Answer. Not all of it. I saw a good deal of it.

Question. Do you speak of White Oak Point?

Answer. Yes; about there.

Question. Have you seen enough of it to form an opinion as to the difference between that and the Leech Lake district? What is the difference in value?

Answer. On the Leech Lake reservation a good deal of the timber is of the best quality. So far as the timber is concerned, it is worth 50 cents per thousand more than the White Oak. It is a better quality of timber; it stands better for cutting; it is larger timber.

Question. Which is worth most, if you were going to buy it?

Answer. I should give more for it. It is worth 50 cents per thousand more in this market.

Question. Do I understand you to say that it ought to sell for more than the stumpage on the Oak Point reservation; and, if so, how much more?

Answer. Fifty cents per thousand feet.

Question. Do you recollect at what distance you are required to cut timber from the streams by your contract?

Answer. I think it was two miles; I am not sure.

Question. Suppose the contract were made so as to require the timber within four miles to be taken, timber over 14 inches 25 feet from the ground, including the Oak Point reservation, and estimated at 200,000,000 feet or more?

Answer. I can tell you. I asked Agent Smith about that same timber. I asked him if I could not get it. He said, "No." I would have given \$1.35 for the whole, at that time. He told me the timber could not be given till the Indians were seen. I would have given \$1.35; I offered it for that same timber.

Question. Did you tell Agent Smith so?

Answer. Yes; I talked to him about this timber, and asked him if I could not get it in the same contract. He said no; that the timber could not be sold now. I forget his exact words; it was because the Indians had not been seen. I think those were his words. He gave me to understand that I could not get it.

Question. Did you tell him at that time that you would give \$1.35 for the whole of it?

Answer. I don't know that I said \$1.35; but we talked about the timber, and my impression is that I intended him to understand that I would take the other at the same price. I had talked with other parties before I went down there.

Question. You say you don't remember what words you used, or whether you said to him that you were willing to take it at the same price?

Answer. I was willing.

Question. Did you say so?

Answer. I don't know what other construction you can put upon it. I asked the question whether I could have it. I think that meant that I was willing to take it at the same price.

Question. Were you aware that bids might be made to the Department direct?

Answer. No; except they were made within the time advertised. I supposed they would not pay any attention to them afterward.

Question. Do you recollect when your bid was put in?

Answer. No.

Question. Where did you see the advertisement?

Answer. In the Minneapolis Tribune.

Question. What is your understanding as to getting out the balance of this Leech Lake timber, as to whether it is as easy to get it out, and as cheap, as to get out the timber in your contract?

Answer. There would not be much difference. I would as soon take it across Leech Lake as across any lake on the Mississippi. You can get on as quickly with it.

Question. Did you ever lumber any up there?

Answer. No.

Question. Do you know how late that lake is usually frozen in the spring?

Answer. Yes. It breaks up the first part of May.

Question. Would there be any difficulty in getting it out the same year it was cut?

Answer. I don't know of any good reason why it could not be got out of there as well as out of Pokegama Lake. It would take very little longer. Leech Lake opens as soon as Pokegama. Leech River opens before the Mississippi.

Question. Would it be necessary to have a steamboat on the lake?

Answer. A man could do it quicker with a steamboat. There would be no trouble in booming logs across there, though a man is liable to be caught in a storm; but it is practicable to make a success of it.

Question. I understand you to say that you understood your contract was to take the timber within two miles, and that you think that this contract—Wilder contract—embracing all timber within four miles, would have been worth as much as yours?

Answer. Yes.

Cross-examined by Judge PALMER:

Question. Do you know anything about it?

Answer. Yes.

Question. Do you know anything about the "Merriam contract?"

Answer. No; I don't remember that contract at all.

Question. Where is Mr. Stansfield now?

Answer. At Pokegama Lake.

Question. What is a reasonable haul to driving streams?

Answer. Some is hauled five miles.

Question. Is there a great deal of timber hauled five miles?

Answer. No, not much, but there is considerable; there is more hauled four miles; there is a great deal hauled that distance.

Question. Is it more expensive to haul four than two miles?

Answer. Yes, everything else being equal.

Question. Taking a contract for two miles within streams and a contract that covers four miles, what is the difference if the timber and everything are equal?

Answer. It is worth all the timber that you would go four miles back for, that is, two miles further than the other, (you don't cut it all four miles back;) for every mile you go beyond two miles it is worth 35 cents for each mile extra.

Question. Take pine that has to be hauled only one mile to the stream, what is that worth?

Answer. It costs more in proportion than for four miles. If you have much work to do you have to prepare your lumber and everything for one mile just as much as for four miles.

Question. Would the second mile be worth any more for hauling than the first mile?

Answer. Yes, 35 cents, and the third mile 35 cents, and the fourth mile 35 cents. There would be no proportional difference.

Question. Does it cost no more on the last mile than on the second mile?

Answer. Of course it costs more for four miles than for two miles. I said 35 cents more for each mile you go.

Question. Are not you mistaken in saying that Leech Lake breaks up as soon as the Mississippi?

Answer. I said Leech Lake River; not Leech Lake.

Question. How much later does Leech Lake break up than the Mississippi River at Oak Point?

Answer. Probably a month; twenty to thirty days later.

Question. You say you would have to draw logs across Leech Lake; when you get to Leech Lake River how then?

Answer. They must be driven down; there is a current to drive them.

Question. How is that river as to being straight?

Answer. There is nothing to make it impracticable to drive.

Question. Would you have to boom in places?

Answer. You might or not, just as men see fit to do. It would, perhaps, pay to make more improvements on the streams than we do, but we could do it without. I don't doubt that there are places where it would be advisable to boom, but it is possible to drive logs without.

Question. Is Leech Lake River a crooked stream?

Answer. I never saw a river that was very straight, and don't know that it is crookeder than other streams that are driven. It is a crooked river, of course.

Question. How is Mud River; are there currents there; has it a hard bottom?

Answer. Could not answer that question from personal knowledge. My understanding is that while it is muddy and has a soft bottom, still it is considered that you can get hold enough with an anchor to move logs.

Question. Is it deep or shallow, Mud Lake?

Answer. It is a shallow lake.

Question. After you got through that lake you would have to drive singly down the stream?

Answer. Yes.

Question. Would it not cost considerably more per thousand from the western extremity of Leech Lake through to the Mississippi market than from the other reservations?

Answer. Not very much; it might a little.

Question. Is not the water in the streams more likely to be low after the first breaking up?

Answer. There is water enough to drive logs, and it has been so for the last seventeen years, enough to drive logs. If there is a driving stage of water you can drive cheaper; but if the water is down to its lowest stage you can drive better than when the water is two feet higher but falling.

Question. Is there any boom between Oak Point and Coon Creek?

Answer. There are booms, but not such as can be used by the general public.

Question. Would not labor be higher later in the spring?

Answer. No.

Question. Is there any difference between lumbering on the Indian reservations and on free land?

Answer. Do you mean on account of the Indians?

Judge PALMER. Yes.

WITNESS. No; not that I know of. There never has been; don't know that they have caused any trouble; don't know of any trouble; certainly nothing to hinder a man from cutting logs and doing as well there as anywhere.

Question. Taking it over ten years, would not there be years when you could not get the timber out the first year?

Answer. Judging from what I know and from what experience I have had, I don't know what might happen in ten years. I don't know of any reason or nothing apparent now, that would make it impossible to drive from there every year, as the water has been in the Mississippi since I have been here.

Question. Over what points of this reservation have you been?

Answer. I have been along by the river; from the Mississippi north I would be traveling nearly west, I think, to north of the Leech Lake River.

(Map shown to witness, who pointed out to the court where he had been in this district, and what timber he had seen.)

Question. Did you get as far as Winnebagoishish?

Answer. No.

Question. Have you been on the Boise River?

Answer. Yes; I have been across there towards Leech Lake. (Witness here referred to the map.)

Question. And round Cass Lake?

Answer. No.

Question. Your contract covered the pine on both sides of this stream?

Answer. Yes, within two miles of all navigable streams; how far that comes I am unable to say now.

Question. When you asked Commissioner, then Agent, Smith about the whole reservation, you had reference to this pine at Lake Winnebagoishish?

Answer. I had.

Question. That was specifically named?

Answer. I could not say whether it was mentioned.

Question. About how much do you suppose your contract covered in quantity?

Answer. My idea was that it would cover seventy-five or eighty millions of feet.

Question. As to any additional quantity?

Answer. I don't know about that.

Question. Were there other bids put in for the pine covered by your contract?

Answer. I don't know.

Question. Did you have a paper drawn up and signed by several men in Minneapolis as to the value of the pine in your contract?

Answer. Yes; I think it was \$1.35 I put in, and the paper said that that was a fair price.

Question. Who signed that paper?

Answer. Dean & Co., I think; E—— & Sons; Martin, Knight & Co.; W. S. Judd, and others. There were eight or nine of them, I think. I don't think Baldwin signed that paper; my recollection is that he did not. Mr. P. Heggaman might have signed it; it is difficult to recollect at this time.

Question. That paper was presented to Mr. Agent Smith before the contract was looked into?

Answer. I think not; I think the contract was written, but I am not positive. My impression is that it was written, and that, at Mr. Smith's suggestion, I got the names of different parties to the paper; I got Fletcher and two or three to sign it. I think I went to J. S. Pillsbury. I think that was after the contract was written; still I am not certain about that. I don't know but it was signed first; don't recollect.

Question. Which do you mean—the paper or the contract?

Answer. The paper.

Question. Do you mean to say that you told Agent Smith, specifically, that you would give \$1.35 for the rest of the timber on the reservation?

Answer. I did not say that I said so to him in these words: "For the balance of the timber on the reservation;" but I said to him, either just before we commenced writing the contract or after, (I think it was at the time,) I asked him if I could get the timber on the other reservations at the same price. I had reference to Winnebagoishish and Cass Lakes, and intended Leech Lake reservation as well. I think at that time Mr. Smith and I talked about the timber on Winnebagoishish Lake. I think we talked about that at the agency.

By Judge JONES:

Question. I see by your contract that you had ten years to take this timber?

Answer. I don't recollect whether it was ten or fifteen; the contract will decide that.

Question. Was anything said as to the terms on which you proposed to take this large amount of timber, as to time?

Answer. No, because Mr. Smith said I could not get it.

Question. Can you say, at this distance of time, what you said to Mr. Smith?

Answer. I believe I have given that several times.

Question. Can you say just what you said to him?

Answer. I asked him whether I could get the balance of the timber on the other reservations, and he made answer that it could not be got.

Question. What is the difference in value between pine and cedar timber?

Answer. At that time, for stumpage, cedar was not worth very much.

Question. If a contract required a man to cut both pine and cedar, would that be as advantageous as if he were required to cut pine only?

Answer. You mean if he was to cut cedar only down to the same dimensions as the pine.

Question. Suppose that case.

Answer. Then the cedar would be valuable if he got cedar that size, as large as that and sound; but he would not get much of it. As I

understand, he is to cut 14 inches in size 24 feet from the ground. Cedar of that size, if sound, would be valuable timber.

[The witness's contract (the "Clarke contract") was here shown to him, and his cross-examination was resumed by Judge Palmer:]

Question. Your contract provides that you shall cut all the pine timber within certain limits which will make merchantable lumber so long, but shall not oblige you to pay for trees less than 14 inches 24 feet from the ground. Do you understand that you could cut timber of a less size than that without paying for it? Could you cut timber of 12 inches, or 13 inches, and not pay for it?

Answer. That is a question that a lawyer could decide better than I can.

Question. What is your construction of it, as a practical lumberman?

Answer. I guess I should have to pay for all the timber cut.

(This witness refused to accept of the fees allowed for the attendance of witnesses.)

MONDAY, *December 15, 1873.*

MAHLON BLACK, having been duly sworn, testified as follows, in his direct examination:

By Commissioner JONES:

Question. State your name, age, residence, and occupation.

Answer. I am fifty-three years of age: my name is Mahlon Black; I live at Minneapolis, and am a surveyor.

Question. State whether you have had experience in exploring and surveying pine-lands in Minnesota?

Answer. Yes; more or less since 1854, almost continually in this country.

Question. Are you familiar with the lands on the Leech Lake reservation?

Answer. I have been through them once, especially to examine them with reference to their value. I examined them all in hurried way. There are no surveys thereabouts. We could only get at an approximate value, there being no surveys. I went to make a definite location. I made this examination in the summer of 1871.

Question. What was the value of the timber on the White Oak Point reservation as compared with the timber on the Leech Lake reservation?

Answer. It was less in value—I mean that on the Oak Point reservation, so-called. It is of less value than the upper timber.

Question. What do you call the "upper timber?"

Answer. Leech Lake, Cass Lake, and Winnebagoishish Lake timber. The best pine is found west of Cass Lake, and on the Cut-foot, which is north of Winnebagoishish.

Question. What would be the difference, if any, in getting the pine to market? Which is the most convenient?

Answer. White Oak Point would be the most convenient, as being lower down. The principal part of the pine is above Cass Lake.

Question. What would be the difference in getting to market between this and that at White Oak Point?

Answer. I could not tell except approximately; perhaps about double. It is very dangerous to navigate those upper lakes.

Question. We understand that there has been no navigation of those lakes as yet?

Answer. That is so. I can only judge by the size of those lakes. They are very stormy. I have been on them several times.

Question. Are you able to say what the difference in expense would be in getting the logs to market between pine three miles from water and one mile from water; or the difference in value between such a contract and the case of where it was four miles from driving water?

Answer. I don't know that I could state; I have lumbered, but it is long ago.

Question. Have you seen this contract called the "Wilder contract?"

Answer. No.

Question. Have you knowledge enough of such subjects to be able to form an opinion as to the value of pine on the whole of that reservation?

Answer. I could only give such an opinion as I gave to parties wishing to purchase on the first advertisement. Persons asked me what it was worth on that reservation—White Oak Point reservation. I advised them to bid as high as \$1 on that contract, but if it included the entire reservation I would give more; but to be confined to that tract I would not give more than \$1. I was not a bidder myself. This was in Minneapolis.

Question. That was a contract to take all the pine within two miles?

Answer. I understood all the merchantable pine. I think there is none more distant than two miles. This pine on Cut-foot Sioux River, on the Winnebagoish, and on the Mississippi is beyond two miles. The great difficulty in navigation is in what are called "eagles' nests."

Question. If you take the whole of the Leech Lake reservation what is the probability of the logs being detained more than one year?

Answer. I think—but this is guess-work—once in three years. I think that more than half the time they would be got out the first year.

Question. Do you know what lumbermen have been in the habit of paying for the privilege of cutting grass?

Answer. No.

Question. Have you dealt in pine lands?

Answer. No; I attempted it last fall, but did not succeed.

Question. How about timber being got through Leech Lake?

Answer. I think it could only be done by towing with heavy tug steamers to make it safe. The harbors in the lake are not sufficient to protect logs; they would hardly bear the second blow of the wind. I think it would take a day and a night to bring logs across with a steamer.

Question. How is the water below?

Answer. Till you get to Pokegama Falls or White Oak Point it is pretty good if you can keep the logs in the river, which often expands into reedy marshes and grasses, often, perhaps, five or six miles across in width there. The river is very crooked, but not deep, and it has what are called "gutters." They should be boomed before the logs are driven. I have not been up in this tract since 1871, though I have just returned from the upper country, but not from this district.

(Here the witness pointed out to the commissioners, by referring to a map, what he knew of the country, and the examination proceeded as follows:)

Question. Were you south and east of Leech Lake in your explorations?

Answer. No.

Question. Is there any difference between the value of timber on Indian reservations and that on free lands?

Answer. I think there is. My experience with Indians makes me

think that there is a difference in favor of outside lands. Indians are a great source of annoyance in cutting.

Question. Did you make any estimate of the amount of timber on the reservation?

Answer. Not anything definite, because we were only a month on the entire tract of 40 miles square. I know there is a large amount of timber on the tract, and I have seen sufficient to be satisfied there are 150,000,000 feet, and perhaps more.

Question. What proportion of Norway pine is there?

Answer. That would be difficult to say. Probably two-thirds are Norway. The Winnebagoishish, and between that and Cass and Leech Lakes, and on the peninsula of Leech Lake, is Norway. The white pine is the most valuable timber.

Cross-examined by JUDGE PALMER:

Question. Did you go down on the southwest side of Leech Lake?

Answer. No; I was west and northwest. My exploration extended north of Leech Lake and of Leech Lake River. I am not very familiar with the country lying south. The 150,000,000 I estimated would come most through Cass Lake and Winnebagoishish Lake, and so to the Mississippi, though some of it south of Cass Lake would come down through Leech Lake.

Question. Your examination was mainly confined to two miles back from the streams?

Answer. No; it was a general examination, but I found the pine generally within two miles of navigable streams; generally.

Question. How far did you understand the White Oak reservation extended north?

Answer. I only took my information from hearsay, as included in the advertisement of Mr. Smith. I understood it would take in Cut-foot Sioux, if the line is correctly drawn on that map before me.

Question. Where did you locate the very best pine?

Answer. West of Cass Lake; that is the farthest back. There is good pine north of Winnebagoishish Lake on Cut-foot Sioux and another stream.

Question. Is there a difference between lakes which have been driven a number of years and lakes which have not been so driven?

Answer. That would not make much difference, except as to the size of the lakes. In the large lakes there is a kind of open sea. Winnebagoishish and Leech Lakes are large lakes, and are stormy. Leech Lake is about thirty miles long, but is better protected than Winnebagoishish. The country around Leech Lake is rolling, but is generally dry. I think the pine is two-thirds Norway.

Question. How much could a steamboat take through Leech Lake in one season?

Answer. I think 10,000,000; if you had 20,000,000 to take out in one season it would be risky work.

Question. If a man had to take out that amount or pay for it, what would be the probability of doing it with one steam-tug?

Answer. I don't think it could come through to market. The seasons are very late there.

Question. What is the difference between Leech Lake and the river?

Answer. Two or three weeks at least.

By Commissioner JONES:

Question. State what are the difficulties in driving logs through lakes,

and whether those difficulties are greater in large lakes than in small ones?

Answer. I have little experience except from observation; but the larger the lake the greater the risk from storms. A break-up there would probably involve the loss of \$1 per thousand feet; it would scatter them over the lake if it broke the boom.

Question. You did not directly answer my question as to whether you have knowledge enough of this particular reservation to give an opinion as to the value of the whole of it. You said you had given an opinion to parties as to the value of the White Oak Point pine. I asked you if you considered yourself competent to give an opinion as to the value of the whole?

Answer. I don't know that I am, though I have my opinion as to what the entire reservation is worth. I believe the whole is worth, to have the privilege of the entire tract, it is worth more than the White Oak Point, probably 25 or 30 cents per thousand feet. I don't know but I might say—(witness hesitates)—I don't think it is worth \$1.50. I think the White Oak pine is worth \$1. I mean when I got it out and when scaled.

Question. Suppose you had to pay \$10,000 in advance before you cut anything, and then \$20,000 each year afterward, and to take all within four miles of navigable water, what would it be worth?

Answer. I would not give so much for it.

Question. What would be a fair compensation, in that case, for the Indians and Government, to cut twenty millions a year or have to pay for so much whether you cut them or not; and further, to pay \$1 per ton for the privilege of cutting hay?

Answer. In that case I would not give more than \$1 or \$1.10 per thousand feet. I think that would be a fair price for it under the circumstances, and considering the bother of the Indians being near you all the time. You have almost to feed them to keep them quiet; it is the cheapest way.

Question. Your success in making money out of your contract would depend very much on getting the logs out the first season?

Answer. Yes; I think a man would make more money paying \$3, or even \$4, per thousand feet, getting them out the first year and selecting his tracts, than if he were to pay \$1 per thousand and be unable to get them out the first year.

FRIDAY, *December 12, 1873.*

At the opening of the session Judge Jones prefaced the proceedings by the following remarks:

We have sent for all the witnesses suggested by Mr. Welsh, in order that they should be examined. One of the Mr. Clarkes is expected, but has not arrived yet. The other Mr. Clark, suggested by Mr. Welsh, is, we understand, at Columbus, Ohio, and it is proposed to take his testimony there if we can find him.

There is no witness present this morning unless we examine the respondent, and we have not fully decided on that point.

The RESPONDENT. I have no objection.

Judge JONES. Then we will now receive Mr. Smith's testimony.

E. P. SMITH, having been duly sworn, testified as follows:

Judge JONES. In reference to the first charge as to the contract, one

of the objections made to that contract is that proper notice was not given. What say you to that?

WITNESS. In reference to the sale?

Judge JONES. Yes.

WITNESS resumes: There was an advertisement calling for proposals in the Minneapolis Tribune, and in reply six or seven bids were received, and among them F. P. Clarke's. He never complained that he had not had full time; on the contrary, when others complained, he maintained that there was plenty of time.

Question. Do you recollect how much time was allowed after the first publication of the notice?

Answer. I don't remember the date when the notice first appeared. The proposals were sent from me July 8. The time of receiving bids was August 1. That was not time enough for any examination of the tract, and it was not supposed to be necessary because of the acquaintance which lumbermen have of that country along the line of the Mississippi river. A short time was necessary in order to have the contract made so as to allow time for lumbering for the next winter. The necessities of the Indians were very urgent, and it was desirable that next winter should give them returns from the sale of their pine, either by advances on the contract or by actual cutting. I consulted with parties in Minneapolis, principally Mr. J. Whitehead, (who knew that country and the men who would bid,) as to when the proposals ought to be in, and, by his advice, fixed the time not later than August 1, and gave the longest time possible for receiving bids up to that date. As I have said, F. P. Clarke never complained that the time was not all he required; besides, the award was not actually made until near November, if not in November, and no bids forwarded to the Indian Office previous to that time received the contract. For example, Mr. Wilder's bid of \$1.60 was actually accepted in October—in the middle of October, and then conditionally.

Question. State what were the necessities of the Indians, and what Indians are referred to.

Answer. This pine on the Mississippi River was treated as belonging to the White Oak Chippewas. The division is an arbitrary one as to property rights; treated by myself, I mean, and by the Department when it came to act on it. The pine lying along the Mississippi River belongs to the Mississippi tribes, of which the band of White Oak Chippewas form part. The Mississippi Chippewas are the largest body of Chippewas in the State, and probably over two-thirds or three-fourths of the Leech Lake reservation, including the Mississippi River pine, belongs to this band of Chippewas—Mississippi Chippewas. The White Oak Point Chippewas are about one-sixth of the Mississippi Chippewas, and they live on the Mississippi River, in the vicinity of this pine covered by the Wilder contract. For that reason it was proposed to treat the proceeds from the sale of this Mississippi River pine as belonging to the White Oak Chippewas, who number between 600 and 700; but this, however, was only until their actual interests—proprietary rights—in the pine could be definitely determined, when an equitable division was expected to be made between all the Indians having rights in this reservation.

Question. It was proposed to treat this as a temporary measure until a final division was made?

Answer. Yes; based upon actual sales and valuation. These White Oak Point Chippewas had had nothing done for them since their removal in 1868 or 1869. They were brought from Sandy Lake and Rab-

bit Lake vicinity to the Mississippi River at a large expense to the Government and actual damage to the Indians. Some houses were erected, and farms opened to a very limited extent; the houses probably numbered six or eight. The locality to which they were removed has scarcely any tillable land, and now, by actual survey, is found to be off the reservation—not within their reservation. The expenditures of the Government for some time have been almost wholly made at the White Earth reservation, and that is about two hundred miles from White Oak Point, across the Mississippi country. In these expenditures the White Oak Indians had no advantage; their game has almost entirely disappeared from the country, and they have nothing to subsist upon but berries and fish, and begging and stealing. A more deplorable and wretched band of Indians is not to be found, unless it is the Pilagers at Leech Lake. You will find their wigwams on the line of the Northern Pacific Railroad. There is no help for these Indians except to open farms for them, so that they may get a living out of the ground; and for this purpose it is necessary to buy cattle and oxen and plows, and have them brought during winter into the country, so as to be ready for the spring. (Document marked D D was shown to witness.) By the Clarke contract the timber was to be cut in four years, and the payments to be one-fourth of the amount annually; half of each payment when the logs were on the bank of the stream, which would be in March. With this certainty of funds I should have been able to make all the necessary purchases for the relief of the Indians.

Question. State, now, the reasons why you notified Mr. Clarke that you supposed that all proceedings under that contract were nullified.

Answer. I had taken the steps for the sale of this pine under general instructions from the Indian Commissioner at Washington to secure the consent of the Indians—instructions to secure their consent to the sale of their pine. I had, as I supposed, obtained that consent from the delegation of Indians sent from what purported to be the Indian council at White Oak Point. Acting on these instructions from Washington and the consent of the Indians, I had made the contract with Clarke; and when I went to the White Oak Point payment, in October, I informed the Indians what I had done in accordance with their wishes to have their pine sold. They denied having expressed any wish to have their pine sold, and said that the delegation to me was without authority. This, at the time, I thought seriously affected the Clarke contract, and would probably have the effect to nullify it. I remonstrated with the Indians, and told them the injustice they were doing Clarke; but they would not listen to me. I am satisfied that they were being manipulated by some of the lumbermen, who were inducing them to repudiate their action. When I found that I was not able to induce the Indians to stand by their expressed request to sell, and that even the delegation that came to me in Minneapolis, requesting me to sell, themselves denied it, I thought that it became my duty to inform Mr. Clarke of the state of things, and so save him from expense in preparations to lumber in their country that winter. I saw supplies coming up the river marked in his name, or in the names of parties connected with him. I first telegraphed him of the opposition that I had met. I informed him that the Indians denied giving authority to sell the pine, and that I supposed that that would nullify the contract—nullify the sale.

Question. Was this before or after you first received information of a bid being made by Wilder?

Answer. This was at Aiken, on the night of the 14th or 15th October. I took the night train to Brainard, and at Brainard found my mail, which

had been forwarded from White Earth, and was two or three weeks behind date from my having been on the move; and in that mail I found a letter from the Acting Commissioner of Indian Affairs, informing me that Wilder had bid \$1.60 for the same pine that Clarke had bid \$1.35 for; and that, unless better bids could be had, I should contract with Wilder. This letter from the Acting Commissioner, which I received in the night after I had sent the telegram to Clarke, or the next morning, was my first knowledge of the existence of such a man as Wilder, and of course I could have had no knowledge that he had made such a bid, and did not have any.

Question. Have you said at any time that this contract with Clarke was canceled because a higher bid had been made by Wilder?

Answer. I may have done so. I now consider that to have been the reason why the bid was not accepted by the Department.

Question. When you speak of it being canceled, do you mean by you?

Answer. If I said "canceled" it must have been in a loose way, because it was never completed. It was rejected at Washington, and so was never a contract, being entered into subject to the approval of the Department at Washington.

Question. What do you know as to the reason of the Department at Washington disapproving it?

Answer. I only know from the letter of the Acting Commissioner, informing me that \$1.60 had been offered for the same pine by Wilder.

(Document shown to witness, marked E E, and witness continues:)

This letter is dated 18th September, but did not reach me until my arrival at Brainard, after passing the telegraph station at Aiken, on the night of the 14th October.

Question. Before you went to Washington in November?

Answer. On the night I reached Brainard, a gentleman called upon me whose name I don't recollect, and asked when Wilder of Saint Paul could have an interview with me. I told him I was going to the Mille Lac payment next morning, and should be back on Thursday, (this was on Tuesday,) and on my return I saw Mr. Wilder at the hotel. He asked for an interview, and asked if I had received any notice from Washington respecting his bid. I told him I had a day or two before, but had been very busy and had given it no consideration, and was not prepared to say anything respecting it. I had no communication with Wilder on this matter, or on any matter relating to it in Washington after that. I casually met him once in Saint Paul on the street, and once on the cars going to Chicago. I had been to Wisconsin, attending a missionary meeting.

Question. State what was the object of your visit to Washington at that time?

Answer. I was very anxious that the Red Lake contract which I had previously made with Merriam should be settled, either approved or disapproved; nothing else so far as this contract was concerned; my visit had no reference to this contract except indirectly. It had reference to the interests of the Pillager Chippewas round Leech Lake as well as the White Oak Point Indians, and also the condition of things at White Earth, and to confer with the Commissioner as to appropriations for the winter.

Question. We think it important to this investigation that you state the number of Indians in any way subject to your supervision as agent, those who would participate in the sale of this pine under the Wilder

contract. From the time you began your duties what was to be done, and the reasons you had to suppose that this sale was necessary?

Answer. I came to the agency in the spring of 1871. There were not far from 6,000 Indians then embraced in that agency. About from 4,200 to 4,500 of these Indians have proprietary rights in what is known as the Leech Lake reservation by treaties—different treaties. They were recognized by the Government as four distinct tribes, viz: The Cass Lake Chippewas, Winebagoshish Chippewas, the Pillager Chippewas, and the Mississippi Chippewas. The Pillager Chippewas were divided into three bands, living on three distinct and widely-separated localities, at Leech Lake, (called Leech Lake Pillagers;) Otter Tail Pillagers, at Otter Tail; and White Earth Pillagers, at White Earth. The Mississippi Chippewas were divided into five bands, living in five different and widely-separated localities, viz: At White Oak, Gull Lake, Mille Lac, Snake River, and White Earth; making in all ten distinct bands of Indians, living separate, who have rights in Leech Lake pine on the Leech Lake reservation. All of these Indians, except the White Earth Indians, were in great necessity—reduced to extreme necessity—for means of subsistence, especially the White Oak Point Indians and the Pillagers at Leech Lake. The game has largely disappeared from the country; no farms have been opened for these Indians; they have no means of subsistence (aside from the few furs they can catch) except fish and berries. Consequently they are obliged to run over the State and live as they can, to the great annoyance of the settlers. By the laws of Minnesota, an Indian has no right to be off his reservation. These Indians have no possible means of living on their reserves, and the only way in which they could be provided for was to open and clear the lands—to open farms so that they could raise something from the soil. By the treaty the appropriations for the Pillagers are not adequate to begin any such work, and in their behalf I endeavored to secure larger appropriations, substantial appropriations for this purpose, but did not succeed. The Indians frequently made reference to their pine in their conversations with me, and I was desirous to realize something from it. I saw that they had on their reservations the means for their relief and improvement; that relief was in their pine. Schools could be provided and farms opened, and, after a while, they could be made self-supporting in their own country, and for this reason I was led to make inquiries frequently, and from parties generally, as I met them, as to the probability of procuring a sale of the pine and as to its value. As the result of my inquiries, I procured proposals from certain parties in Minneapolis, including two of the heaviest lumbermen in the State, for the pine on the Leech Lake reservation. The highest that I could get for the stumpage was 30 cents, and finally I induced them to make an offer of \$2.50 per acre for portions, of the reservation, in tracts not less than eighty acres each, as they might select. This offer I forwarded to Washington. No contract was made nor attempted to be made, but the proposal was forwarded.

Question. Who made that offer?

Answer. Clinton Morrison, W. W. Eastman, and C. M. Loring. I received instructions, in reply, from the Indian Office, to lay the matter before the Indians, and to enter into a contract with their consent with these parties on the terms proposed, and forward the contract for the action of the Indian Office. I repeated to these parties the decision of the Indian Department, but they declined to proceed with the matter, giving as a reason that they did not believe that the pine was worth what they had offered. The bidders declined on several occasions, and

I called their attention to the offer before, but got only the same response. This offer was lying unaccepted for more than eight months previous to the Wilder contract.

Question. What were the revenues of the Indians at White Earth when you entered on your duties ?

Answer. I cannot say exactly, but by reference to the treaty ; cannot recall ; some were from \$12,000 to \$15,000 a year, aside from their annuity payment, which was cash in hand. They number from six to seven hundred now ; at that time there were three to four hundred.

Question. How many were there who had a right to participate in this revenue ?

Answer. All, except the Pillagers, if they would come there.

Question. What was the situation of the White Earth reservation as to improvement when you took possession ?

Answer. There were two farms open, one of 125 acres and the other less than 100 acres. Three or four Indian chiefs had small patches broken ; there was a second-hand saw-mill entirely broken down ; a farm-house ; a blacksmith's shop, and eight or ten houses belonging to the Indians ; and some five to eight yoke of oxen. That was in the spring of 1871.

(The examination of E. P. Smith was suspended at this point in order to receive the testimony of other witnesses, after the reception of which, Mr. Smith proceeded as follows :)

Examination resumed :

By Judge JONES :

Question. You have said that the Chippewas at Leech Lake had a right to participate in the advantages you spoke of, if they removed to White Earth ?

Answer. I said the Mississippi Chippewas.

Question. Explain fully.

Answer. In 1867 the Mississippi Chippewas made a treaty ceding large bodies of pine-lands, taking in return the reservation known as White Oak. The evident intention of the Government was to make that reservation a home for the Chippewas, and any of these Mississippi Chippewas living in the places mentioned have a right under the treaty to go there and partake of those benefits. I think that answers the question.

Question. You said that you understood that you, as agent, had authority to negotiate for the sale of the pine, but that you had no such authority without the consent of the Indians ?

Answer. Yes.

Question. Was it your understanding that, by the usage of the Interior Department, you might contract for the sale of the timber without that consent ?

Answer. No ; I supposed that the usage of the Department was uniform in that respect, but I saw substantial reasons it ought not to be so, that is, to depend upon the consent of the Indians ; but I supposed that the Department always acted on their consent.

Question. What was done after what you have said with reference to the Clarke contract with regard to the sale of the timber previous to the completion of the Wilder contract in Washington ?

Answer. There was nothing more previous to the negotiation of that contract in Washington.

Question. What part did you take in that negotiation, and what reasons had you for what you did ?

Answer. I had conversations with Commissioner Walker upon the interests of the Pillager Indians, and asked that he would put into his estimate an appropriation of \$30,000 to be spent for their benefit. He called my attention to the correspondence as to the sale of timber in my agency, and asked me if this timber could not be made available for this purpose. I told him that the Pillager Indians had no share in the White Oak Point timber; that that belonged to the Mississippi Chippewas. There was further discussion, not very extended, as to the interests of the Pillager Indians, and as to the difficulty of securing appropriations; but I gained what I considered a promise from the Commissioner that he would endeavor to secure an appropriation for the Pillagers. I might say, perhaps, that I was encouraged from what he said to expect relief of that kind. He called my attention to Mr. Wilder's bid of \$1.60, and also to his letter to me, instructing me to accept it unless I could get a better offer. I told him I did not think I could get a better offer; that it was a higher figure than I had named for the timber; and then he proposed, as I understood, to draw up the contract with Wilder for \$1.60. I was in haste to return, but the Commissioner desired me to stay till the contract was completed. The next day, or the second day after, I was in the Department when some question with regard to the contract was under discussion between Wilder and the Commissioner. The Commissioner turned to Wilder and said, "Why not make a bid for the whole pine?" Wilder replied, "All right;" and, after some banter, he did make a bid for it. The Commissioner compared that bid with the other bid of \$1.60, and finally proposed to let him have the pine—the whole of the timber—at \$1.30. Wilder declined to consent, and finally took it at \$1.15. I don't know who first made that proposal. General Walker, at several points in the negotiation, consulted with me as to the comparative value of this timber and its quantity as compared with that on the White Oak reservation.

Question. Where did you first see Wilder on that occasion?

Answer. I met him in the Commissioner's room two or three days before. I had seen him in Washington previously, and had no communication with him till they made the contract.

Question. What information did you give the Commissioner?

Answer. The contract was not made the first day, and between that time and the time it was made I probably saw Mr. Wilder, and it is not unlikely that we talked about the pine on the Mississippi River, but I have no recollection of it. It is probable that we should.

Question. If you did see Mr. Wilder, had you any conversation with him as to what he ought to give for it?

Answer. I knew his bid was \$1.60.

Question. Had you any conversation with him as to any figures he could have the pine at?

Answer. No; nor anything about that.

Question. State what you said to the Commissioner by way of information that you received?

Answer. I called the Commissioner's attention to the proposals which I had forwarded to him nearly a year before for this whole tract of pine, and that I had notified the parties that I was instructed to complete the contracts and forward them for the consideration of the Indian Office, and that those parties had gone back on their proposition and would not buy the pine on the Leech Lake reservation, they selecting their 80-acre tracts at \$2.50. I also called his attention to the fact that the ice in Leech Lake often does not go out till the middle of May, and that I have taken my oxen across to Bear Island and another island, and done spring plowing and

came back again on solid ice, and for that reason the delay in driving logs would make an additional cost, and of course render the lumber proportionally of less value. Then he asked me if I did not think that \$1.15 for the whole was better than \$1.60 for the Mississippi River pine. Commissioner Walker and General Chum and Mr. Wilder and I were in the room. I told him I thought it was. Then he said, "That will give your Pillagers money just the same as if they had an appropriation." I said, "Yes, if I could have some money in advance." Then he negotiated with Wilder that there should be advance payments this summer of \$10,000. I told him that was not what was needed. He said it was the only chance, and the contract was drawn without any suggestion from me as to its form, so far as I remember, by Commissioner Walker and his clerks. The question occurred as to whether the Indians had given their consent to the sale of the pine, and I told Commissioner Walker that they had not; that they had talked with me about the pine, and that only the White Oak Chippewas had consented, and that they had gone back on that consent. The question was discussed at some length between the Commissioner and General Cowen as to whether the Department would take the responsibility, as guardians of the Indians, of selling without their consent. Commissioner Walker was very emphatic in the opinion that the Government ought to do so, if it would in any way benefit the Indians, and when the contract came to be signed—I contracted and he approved—he added that as the Indians had not given their consent to make it he considered it advisable to have the approval of the Secretary of the Interior, and General Cowen did so approve it, as Acting Secretary of the Interior.

Question. What means did you take to inform yourself as to the character of this timber and as to its value?

Answer. I had been through the reservation in three directions, east, north, and south, and knew something of the character of the streams and timber, but only in a general way. I had inquired of many parties respecting the timber, and inquired as to the best means of realizing on it for the benefit of the Indians, and from the information received at different times and from different persons, I formed my estimate. I have never in conversation with any one, nor told any one, that the pine of Leech Lake would take two years to get out generally, and that for that reason the timber would be depreciated.

Question. State whether this arrangement was, in your honest judgment, one that was for the interests of the Indians?

Answer. I believe that no act of mine in my administration in Minnesota was so beneficial for the Indians as the sale of that pine. I believe the Indians are now placed in a position to be made comfortable on their farms, and in their houses that can be built out of this money.

Question. Do I understand you that in this sale, running through this length of time, you thought it necessary to make the sale of the whole of it on those conditions?

Answer. Ordinarily when a man wants to purchase anything he wants to control it, and the sale of the whole could be made to so much better advantage than of a part only. Then there were those different tracts in this reservation, three different tracts, belonging to three different bands of Indians, under the treaty; and in order to help them you must cut pine from no reservation or else a certain amount of pine from each reservation, which would require a contract with three different parties, or one for each, and could not be made so advantageously.

Question. Why make the contract run through so many years?

Answer. I heard many persons say that they would not go into that

Leech Lake country at this time to have the lumber for nothing, and that the only possible contract that could be made would be one embracing a term of years, so that as timber became scarce, it would pay to go up and lumber there. Clarke was to make all his payments in four years, and that was for a comparatively small amount of pine.

Question. This was a large contract. What investigation did you make as to the responsibility of the parties?

Answer. I did not consider myself as making the contract.

Question. Did you give any advice on the subject?

Answer. I think the Commissioner asked me as to Wilder's standing in Saint Paul. I told him I knew scarcely anything about him, that he was a stranger to me. Then the Commissioner said he had received letters of introduction, General Hancock and others giving Wilder the highest character.

Question. You have mentioned General Walker and General Cowen as being present; where was the Secretary of the Interior?

Answer. He was not there, then; not in Washington.

Question. Have you said all that occurred then with reference to authority from the Indians?

Answer. Yes.

Question. State whether in reference to that matter you gave any opinion.

Answer. I told General Walker I was glad to hear him say that their consent ought not to be considered necessary; that it was time the Government should take care of its wards according to its feeling of what was right; that it was impossible to negotiate with the chiefs without also negotiating with other men; that of ten different bands, every one had its set of men who must be satisfied before a contract could be made, half-breeds and traders and whisky-sellers, and sometimes all of these combined. General Walker referred to a case in point. He said that "these White Oak chiefs had been tampered with, and had been induced to go back on their offer to sell, and that it was not worth while to consult people who did not know their own interest." These Indians would often propose to me to sell the pine by the tree, and had no idea how much 1,000 feet would be. I have tried to explain to them by showing how many boards were in a building, but found it impossible to make them understand. For that reason it seemed to me to be unnecessary, so far as it was a question of expediency, to consult the Indians. The only reason for consulting them would be to keep them satisfied, and that I consider as highly desirable in all cases where it can be done.

Question. At the payments subsequent to the execution of the Wilder contract, were the Indians aware of the contract and its terms?

Answer. That contract was made in November. I was one month at home, at my headquarters, and that was so severe a month that it was impossible to get across to Leech Lake, and after that I went to Washington again, and returned about the 10th March, and on my way back I was notified, by telegram at Saint Paul, that I was appointed Commissioner, so that I had no opportunity to go to these Indians at Leech Lake. But as soon as I found that I was to leave the country, I wrote to Douglass, my representative at Leech Lake, and told him of the contract, and sent him a copy of it, and asked him to gather the Indians together, and explain it to them; tell them of its provisions and what was to be done with the revenues received from it; and as a matter of form, and to have something to fall back upon hereafter, to get their assent to it. I have no official information as to what he did in the premises, but I think he followed my suggestions.

Question. Have you seen any of the Indians since ?

Answer. I met at White Earth a delegation of these Leech Lake Indians, who informed me that they had been sent by the band at Leech Lake to inquire more about the contract that Dr. Barnard had read to them, and I gave them a full account of it; told them that it was sold to Mr. Wilder by the Commissioner; that he had decided to sell it without their consent, because he knew more about it than they did themselves; that I believed the sale was for their benefit, and told them of some things that would be done with the money; among other things, that they would have a saw-mill that summer. They had been obliged to transport lumber some seventy or eighty miles; that they should have horses and wagons, but that no money in hand would be given to them under the contract if I could help it; and in my instructions to Dr. Barnard I was very positive as to that, and that he was to have a full understanding with the Indians that they were not to receive money, but to be helped in the ways of civilization. I was positive on that, because the Indians were heretofore suggesting that they would get funds to pay their debts to the traders. Those around concurred, and the traders had spoken to me about that arrangement to pay the debts of the Pillagers to them in this way.

Question. What do you mean by using the money to help the Indians ?

Answer. To be used under the direction of their agent for their benefit in making such improvements on the reservation as should enable them to get a living out of the soil.

Question. Was it part of your policy to pay them, even if they worked for themselves ?

Answer. Yes.

Question. Your idea being that you could not civilize them without making them work ?

Answer. Yes; that is the first step, I consider, toward their civilization, and is indispensable to it.

(Here Commissioner Jones announced that Mr. Wilder, who had just entered the room, had informed him that he had found the letter from Agent Clarke, the letter which had been mislaid.)

The examination of E. P. SMITH was then resumed :

By Commissioner JONES :

Question. What did these Indians say after it was explained to them ?

Answer. An Indian who came to me there was one of the most troublesome Indians at Leech Lake, but he expressed himself as satisfied with the arrangement, so far as he was concerned, and said he would go home and tell the Pillagers what I had told him, and he thought that they would go to work. The White Earth Indians were present at this time; it was an open council. I reminded them that they had an interest in this pine; that it had been sold without their consent, because of the difficulty of gaining the consent of all the Indians, and that if only the White Earth Indians were interested, I should not have thought of selling it. I spoke to them of the pine on their own reservation; that this Leech Lake pine was sold for \$1.15, but that theirs ought not to be sold for less than \$2, and that in no case should they sell their pine without consulting their best friends, and especially Bishop Whipple. They replied that they did not want to sell, but as to this other pine they were satisfied with regard to it.

Question. What is the condition of the White Earth Indians at present ?

Answer. I regard them as one of the most hopeful bands of Indians in the country. They have begun to work; the ambition of the reservation now is to have houses and fenced fields, and they have raised a good crop of wheat this year, and for the first time in their history they have enough to eat without hunting.

Question. Can you state the number of their houses and the number of acres broken?

Answer. There are between one hundred and twenty-five and two hundred houses—I cannot say nearer—in which Indians reside on this reservation. Cannot say as to the number of acres opened; the plowing that I have done has been mainly small tracts round each man's house, from three to ten acres for each family.

Question. At the time your agency began had they any property separately from others, and how many of them?

Answer. I think from eight to fifteen families had.

Question. How many now?

Answer. Over from one hundred to one hundred and twenty-five families. The population is not far from one thousand there now.

Question. Are the Mississippi Indians still coming there?

Answer. Yes; they come by families and individuals.

Question. Are they wild Indians?

Answer. All not there are wild Indians.

Question. What proportion of those now at White Earth were wild when you began?

Answer. I should say there were thirty families who were dressed in citizens' clothes.

Question. Do you know of any person connected with the Interior Department, or in any way connected with the Indian Bureau, who has or is supposed to have any interest in this contract?

Answer. No.

Question. What do you know about, or what connection had you with, this Merriam contract?

Answer. I made a contract with a man of that name. He lives in Minneapolis. Don't know his initials; G. W., I think. It was for the Red Lake pine, at \$2.50 stumpage. I made that contract after making inquiries as to the value of the pine, and after receiving permission from the Indian Office and the consent of the Indians. At that time there was more competition for that pine than there is at present, and than for any other pine, as far as I know. That pine goes into Manitoba, and is nearly all the pine that can go into that country of any amount from the Red River Valley. That contract was approved by Commissioner Walker while I was in Washington. I called his attention to the interests of the Indians, and said I wanted to secure payment on the pine that winter to help the Indians in civilization. On my return from Washington, bringing back the contract approved, I found in my office at White Earth a letter from the Commissioner of Clarke's bid of \$3, and instructing me to contract with him if he was a responsible man. I made no reply to that letter, because all action had been forestalled by giving the contract to another party. The letter was written before I went to Washington.

Question. Was anything said to you at that time about any higher bids?

Answer. No.

Question. Was there any time when you could have cancelled the contract and received the benefit of the higher bid of Clarke?

Answer. No.

Question. What have you to say as to this being a fair price for this timber?

Answer. I don't think it is fair. I think it is too large. The cutting of timber and getting it to market, and the great difficulty of lumbering in that country, and the fact of there being scarcely any market, I understood—I have no personal knowledge of that: for these reasons, I don't think that that contract could be now taken to-day for more than \$1.25. It is a very difficult country to get into. You have no road, except from Brainard and across Leech Lake, necessitating making roads for supplies for more than one hundred and fifty miles, nearly two hundred miles.

SATURDAY, *December 13th*, 1873.

E. P. SMITH's evidence continued.

By Judge JONES:

Question. I believe you finished the statement with reference to the Merriam contract. In your connection with the Rust contract, what did you do?

Answer. Some time in November last I was sent for to see the agent of the Lake Superior Chippewas, who was quite ill and in his room at the Metropolitan Hotel, Saint Paul. I found him quite low and unable to see any one, and found the person who claimed to be in attendance upon him, having accompanied him on the cars from the agency, named Goucher. He told me he had been trying to get the attention of Clark to an offer which he wished to make for the Court d'Oreilles' pine. I inquired particularly as to the pine, and he said that Clark had already contracted with a person named Rust for that pine; that a gentleman named Gilmore was then in the hotel, and was there about to contract for Rust. As soon as I could I went to Clark and asked him what he had sold it for. He said, for \$50,000. I made inquiries as to the probable value of the pine. I found in the hotel Mr. Laird, of Laird & Co., whom I knew personally to be lumbering on the Chippewa River, and is familiar with the market-price of timber in that vicinity. I also found in the hotel a person named Cornell, who had been through this Court d'Oreilles reservation, as a timber explorer. From these gentlemen I satisfied myself that the pine was worth more than \$50,000, and I procured from Mr. Laird a promise that he would telegraph Commissioner Walker an offer of \$100,000 for the same pine, which telegram, I afterwards learned, he did not send. I then went to Clark and told him what I had done, and advised him to telegraph to Commissioner Walker that an offer of \$100,000 had been made for the pine which he had sold for \$50,000, and suggested that he should mark the telegram "confidential," so as to be sure of reaching Commissioner Walker's desk; otherwise a telegram might get into the hands of a clerk, and be delayed for some time, possibly, in reaching the Commissioner. Agent Clark telegraphed according to my suggestion. I found, however, upon further inquiry, that he had actually completed the papers, so far as he was concerned, and that they had gone to Washington, and I had some apprehension that the contract might be carried through; but, as a precaution, I procured another telegram to be sent directly to the Secretary of the Interior, requesting that the sale to Rust should be suspended, or something to that effect. I afterward made further inquiry concerning the value of this pine, and found the market value to be from 60 cents to \$1.00 per thousand feet, this estimate being made by

different persons. I called upon Mr. Laird several times afterward, in Winona, and endeavored to have him increase his bid, as it was worth more than \$100,000; but he declined, though he was desirous to obtain it on his bid. I then found Mr. Wilder. Whether I spoke to him first or he to me, I am not certain, but I endeavored to have him put in a higher bid than had been offered, and finally procured from him what I regarded as worth \$1.25 to \$1.50, and, possibly, \$1.75 per thousand feet, which I forwarded for him to Agent Clark, if I remember correctly. I either forwarded it or advised him to, after having put it in such form as I thought most beneficial to the Indians, and so as the most certainly to protect their rights. This contract with Mr. Wilder, I afterwards learned from Clark, he did not forward, because he had been directed by the Department, as a result of the telegram to the Secretary of the Interior requesting suspension of action, not to take any further action as to the sale of that timber. Rust, as I afterward learned, claimed that his contract for \$50,000 was completed once, and after that could not be set aside; and the Assistant Attorney-General, the solicitor to the Department, sustained that claim of Rust's in his decision to the Secretary; but Rust subsequently, and in consideration of an extension of time for cutting the timber, and for other considerations, made a supplemental contract giving \$75,000 more, making, in all, \$125,000 for the pine which he had at first purchased for \$50,000. My action as to this matter with Agent Clark and the affairs of his agency arises from the fact that the Indians in Wisconsin and Minnesota were assigned by the Department to the care of the American Missionary Association, of New York, of which association I was an officer, and had specially committed to me the supervision of their affairs in these agencies. This threw upon me the responsibility of protecting the Indians in all their rights, and of advancing their interests in every way possible, including the Indians comprehended by the agency of Clark. The association was desirous of assisting these Indians with schools, farms, and so forth, from the funds that they would obtain for their pine, which was supposed to be available for such purposes, and to provide teachers and farmers, who have already been sent to them, on the nomination of the association, for the assistance and improvement of the Indians. I may say that among the persons whom I consulted with regard to the pine at the Metropolitan Hotel was the Hon. H. M. Rice, who has been for a long time interested with these Lake Superior Chippewas, who were under Agent Clark. I met Mr. Rice in the corridor of the hotel just after I had learned from Clark of the sale of this pine, and of the value of it, and I informed him that it had been sold for \$50,000, which certainly was not more than half its value. He said that that made no difference, because \$50,000 was just as good a sum for them as \$100,000, as they would squander it any way. I told him that I thought it did make a difference, and that I was going to stop it, if possible.

Question. Where was this conversation with H. M. Rice?

Answer. In the corridor, right by the clerk's desk in the Metropolitan Hotel.

Question. Was any other person present?

Answer. Don't know that there was; there were persons around.

Question. Reference is made in Mr. Welsh's charges to Mr. Rice, in this connection, as having in his possession certain correspondence. Do you know whether he has such correspondence, and its nature?

Answer. He may have the correspondence which passed between Agent Clark and me with regard to this sale. I don't know of any

correspondence with Clark, however, except with relation to the offer that Wilder had made, and which I told Clark was the best offer I could get, and hoped he would accept in place of Rust's contract, or something to that effect. I don't recollect the correspondence, except generally.

Question. Did you keep copies of what you wrote to Clark?

Answer. No; the correspondence was not official; I was not acting as agent, only as a friend of Clark's, and on behalf of the association in New York. I kept no copies of the letters, but there was nothing in that correspondence—it is not possible—that in any way implicates any person.

Question. Have you any knowledge, or the means of knowing, how it could be that Rice has that correspondence?

Answer. Yes; Rice has been in communication with Clark while the latter was in the Church hospital in this city. Clark has been suspended from office as Indian agent for intemperance and incompetency.

Question. How long is it since you saw Clark?

Answer. I saw him last in March of this year, here in Saint Paul.

Question. Something has been said as to the difficulty of securing documents and papers relating to this investigation. State what you know with reference to the disposition of the Department at Washington as to allowing the examination of papers in the Office, and the furnishing of copies.

Answer. Mr. Welsh told me the day before I left Washington that the Secretary of the Interior had given him permission to inspect anything in the Office, and to ask any questions of any person in the Office on any subject, and that he had full access to all the papers in the office.

Question. As a matter of fact how has that been?

Answer. He has had entire liberty in the Office, and has got any papers he has asked for.

Question. To what office do you refer?

Answer. The Indian Office and the Secretary's Office of the Department of the Interior. I can speak officially of my own office, that of the Indian Bureau, under my supervision, and can say that Welsh has availed himself of this liberty repeatedly. Copies have been furnished him by my clerks, every one that he called for. He called for a copy of the Wilder contract, and I had it made out and sent to him. That was some time in August or September. He told me afterward that he had sent that copy to Rice, and that Rice caused its publication in the Saint Paul Dispatch.

Question. Under what circumstances were you first notified that Laird would make a bid for this timber in the Rust contract?

Answer. The same evening that I brought the matter to his attention, I urged him to make a bid, and he said he would do so. That was at the time Laird was in the hotel.

Question. What is Mr. Laird?

Answer. He is a lumberman and manufacturer.

Question. State whether you had any object in attempting to stop the completion of this Rust contract other than you have already said.

Answer. I had none other.

Question. State whether you had any reason to believe that Laird would make his bid for any other object than for his own interest?

Answer. No; he is a man of the highest character.

Question. Do you swear that your only object was for the purpose of securing a better price for the Indians?

Answer. Yes.

Question. I ask whether you believe that Mr. Rice can have in his possession any papers material to this investigation other than those you have referred to ?

Answer. I don't see how it is possible. I think I am familiar with the character of all the papers that have passed.

Question. Have you a copy of the Rust contract ?

Answer. No ; not with me. I have, in the office in Washington.

Question. You can furnish us with a copy ?

Answer. Yes.

Question. I mean both ; the first contract and the supplemental one ?

Answer. Yes ; and the correspondence relating thereto, in the Interior Department and my Department.

Question. State what you know in relation to the contract with Simmons, of Hartford, Connecticut, for the pine in Lac de Flambeau reservation ?

Answer. Simmons was introduced to me in Chicago, by the Reverend Mr. Williams, who had told me that Simmons desired to purchase the pine in Clark's agency, in Lac de Flambeau reservation. Mr. Williams is pastor of the Forty-seventh street Congregational church, and is on the committee of the American Missionary Association of Chicago. Simmons told me that he had been conferring with Agent Clark about the sale of the pine, and that he, Simmons, had made a proposal for it, and my impression is, but I am not certain, that a contract was made in accordance with that proposal, to purchase the pine for a certain amount ; don't remember the amount ; and also for a portion of the profits which might arise from the actual disposal of the pine ; *i. e.*, he was to pay a certain amount, a guaranteed certain amount, and, in addition, to give a certain percentage of the profits that would arise from the pine, the cutting of the pine to run through a term of years. I told Simmons and Clark, who were together in Chicago, that no such contract could be made ; that it would not be approved by the Department, and that the Government could not possibly enter into any operation of the kind in any contingency, and that it was not worth while to forward any such proposition to Washington ; and I suggested a form of contract, or something to that effect, (it has passed from my memory,) in which the sale might be made if it were approved by the Department, and I think it was straightened up in Chicago at the time, in the office of the American Missionary Association, but of that my memory is not distinct. I came from Chicago directly here, and learned of my appointment as Commissioner, and went back to Washington in a few days, and then the matter came before me again, through Simmons, who came to see me, and it was either by him, or by General Howard, secretary of the American Missionary Association—I am not certain which—but at any rate the contract was brought before me, and, as I considered, in about the same shape as it was in Chicago. I declined to have anything to do with it, not wishing to take the responsibility of selling any pine in Wisconsin except after public proposals and advertisements ; and this on the ground of what I knew to be the feeling of the Congressmen from Wisconsin, who had complained as to Menominee pine that it was not right to the citizens of Wisconsin to sell pine at higher rates than the citizens were obliged to pay at Government sales ; and they protested against any negotiations for pine that would not include a chance for the citizens to purchase at the same rates as they could purchase from Government. That is all I know in relation

to this contract or that I can recollect now. Mr. Welsh inquired of me some days ago for that contract, and at first I thought it was in the Office, but my recollection is that Simmons, finding that I, as Commissioner, declined to approve of the proposition to sell the pine, withdrew the contract and that he has it now ; that I speak of from indistinct memory. I considered the whole affair as being inchoate and of no consequence, because nothing was done, or attempted to be done, by the Office.

Question. I call your attention to the fact that Welsh says that the correspondence with Clark could not be found in the Office.

Answer. Whatever correspondence Clark had accompanied the contract so far as I know. It would be part of the proposal, and when that was withdrawn, probably the correspondence went with it.

Question. Do you know anything as to how it disappeared ?

Answer. Only this recollection. Simmons said that, if I was not going to do anything, he wanted to withdraw everything ; and my impression is that he did so.

Question. Where does he reside ?

Answer. In Hartford, Conn.

Question. What is his business ?

Answer. I don't know. I first saw him in Chicago. I was introduced to him by the Reverend Mr. Williams. I knew nothing of him before, but Mr. Williams indorsed him without hesitation. I had no connection with him except what I have said. There may have been letters of inquiry—I think so ; I think about two months ago—asking me if anything could be done on that pine.

Question. Was that before or after he withdrew the papers ?

Answer. After. He withdrew the papers soon after I came to Washington, and soon after he made the offer.

Question. It is said here in the complaint that you stated that you had urged the acceptance and completion of this contract and that you were only deterred from doing so by members of Congress from Wisconsin. Do you say that this allegation is correct or not ?

Answer. I had had no communication with any members of Congress about it at all, and I don't know that I stated to any member of Congress that there was any proposition to sell this pine ; but I knew that it was, as I have said, objected to on general principles as being disadvantageous to citizens to dispose of pine in this way ; and this I stated to Mr. Welsh distinctly before these charges were drawn up.

Question. I ask you whether you did say to Welsh that you had endeavored to get this contract approved ?

Answer. I did not. On the contrary, I declined to do anything in it.

Question. Do you remember whether you told him so ?

Answer. My action in reference to this pine had the same reason and motive as my action as to the Court d'Oreilles' pine. No action was ever taken on this contract.

By Mr. JENNINGS :

Question. It is charged here that it was endeavored to keep this contract a secret. How is that ?

Answer. There was no such effort on my part, but bidders are usually desirous of keeping their bids from being generally known.

Question. Do you know what participation Howard and others had in the negotiation ?

Answer. They were consulting with me and were desirous of procuring a sale if it could be done so as to have a fund for the civilization

of the Indians. These gentlemen belonged to the American Missionary Association.

Question. Do you know anything as to the alleged effort to keep secret this Simmons matter?

Answer. No. Mr. Simmons may have had reasons why he did not want other competitors—lumbermen—to know his operations.

By Mr. Commissioner SMITH :

Question. It is very general for these people to be shy of letting other lumbermen come into their secrets of this kind?

Answer. Yes; because it is the practice to endeavor to break up such arrangements by telegraph by making a higher bid.

By Commissioner JONES :

Question. I wish you would state your recollection as to the conversation with F. P. Clarke when you received his bid for the Oak Point pine as to the timber on the balance of the reservation?

Answer. Clarke was very anxious that his bid should cover the pine at Winnebagoishish Lake on the Mississippi River above the country covered by my advertisement for proposals, and belonging to the Winnebagoishish Chippewas, and not to the White Oak Point Chippewas. He spoke to me several times about it both when he put in his bid and after the contract was drawn, and afterward, desiring that the pine lying along the river and above the country covered by his contract should be included in it. I told him that it could not be done, because the Winnebagoishish Indians had not given their consent to the sale of the pine, and at that time I had no instructions from Washington to sell pine, except with the consent of the Indians, and there was no intimation that the pine of the Leech Lake reservation, as a whole, was to be included in that contract, or that he (Clarke) desired to have it included.

Question. What is this pine at Winnebagoishish that you understood Clarke wished to include in his contract like, compared with the other pine?

Answer. It is the best pine, probably, on the Leech Lake reservation, and because it can be readily taken to the Mississippi River—almost as readily as that at White Oak Point.

Question. Have you any means of knowing of what quality it is as compared with the balance of the Leech Lake reservation pine, not including Oak Point?

Answer. No; I have no exact information; I only know the impression that I had at that time. I got the impression from him that it would yield some twenty-five or thirty millions of feet.

Question. Where does this lie with reference to the lake?

Answer. Almost directly north of Leech Lake, and this portion that Mr. Clarke desired to include in his contract is near navigable streams. The Mississippi runs through Lake Winnebagoishish.

By Commissioner SMITH :

Question. Mr. Clarke, in his testimony, speaks of certain pine-land that he went over. What proportion of pine could he have examined, from his description, compared with the whole?

Answer. Not one-twentieth part, I think, from the examination which he said he made; and that would be this pine which he wanted to cut in the Winnebagoishish tract.

Question. Have you any knowledge of papers belonging to the Department being removed?

Answer. I have no knowledge of any papers being removed from the files in my office, and don't believe there have been any. The papers as to this contract were never on the file at all, nor the contract, nor the correspondence connected with it.

Question. Have you, to the best of your judgment, furnished copies of all papers relating to these charges?

Answer. I have.

By Commissioner JONES :

Question. Have you any knowledge, information, or belief that anybody had any interest or expected to have any interest in this Simmons contract in any way connected with the Department of the Interior or with the Indian Bureau?

Answer. I have not. On the contrary, I don't suppose that there is a member of the Department who knows anything about or even heard of it.

Question. Have you any knowledge of anybody having any interest in it except Simmons?

Answer. No.

AFTERNOON SESSION.

SATURDAY, *December 13, 1873.*

E. P. SMITH (the respondent) was here recalled and cross-examined by Judge Palmer as follows :

Question. Did I understand that in your conversation with F. P. Clarke, he proposed to include in his contract the Winnebagoshish pine?

Answer. I don't know that he actually proposed to include it. He asked if it could be included.

Question. Did you understand that he expressed a desire to include it?

Answer. Yes, if it could be done.

Question. And without publication?

Answer. Yes. He said his impression was that the contract would include the pine on the lower portion of Winnebagoshish Lake. I told him that that belonged to a different set of Indians.

Question. How long was it after your interview with Simmons you were appointed Commissioner?

Answer. Three or four days.

Question. How soon did you assume your duties?

Answer. In about two weeks.

Question. How soon after that did Simmons present his contract?

Answer. I am not certain. I think within ten days or two weeks.

Question. Had you an interview with him during the time you were in Washington?

Answer. I have seen him twice in Washington and once in New York. I saw him in New York in May, and in Washington in September or October.

Question. Had you more than one interview with him after he declined the contract and took it away?

Answer. No. I am not sure whether General Howard did not present the contract. I have a very indistinct recollection of how that contract came before me. General Howard is secretary of the American Missionary Association.

Question. What supervision does the American Missionary Association exercise over the Indians?

Answer. All Indian agencies are assigned to some religious body or society, by direction of the President. That is called the "President's policy." These societies nominated the agents, and through them furnished the Indians with implements, *i. e.*, procured implements for them, and also furnished them with schools, and in some places, missionaries; and the Government, under this policy, holds these societies responsible for the character and actions of the officers of the societies in the agencies and for the character of the appointees under the agents.

Question. Does the American Missionary Association have any control of the funds realized from the sale of the pine?

Answer. That fund would naturally be expended under the direction of the agent, who would be, more or less, under the direction of that religious body. He would be influenced by their suggestions. General Howard is the secretary—district secretary—of the association, and had, by his position, the supervision of all relating to the work of the association in the western country. He had himself been up at Superior, and also visited the agencies in Minnesota, as an officer of the association.

Question. The charge refers to the sale of pine land. How as to that?

Answer. There was no attempt to sell pine land and no payment was received for it.

Question. I wish you would explain a little more fully the idea of the Wisconsin gentlemen, with reference to the pine, as to why it should be sold like other Government land.

Answer. They claim that citizens could not get pine at private sale on such advantageous terms as at public sale; and that Indian pine was, to a certain extent, Government property. That is what they claim.

Question. Their opposition was with the view of reducing the price to be received?

Answer. The result would be to decrease it. Government is not able to sell pine for more than \$1 per acre; from that to \$1.50. Pine has been sold near Leech Lake for \$1.25 per acre.

Question. Who was it that recommended the appointment of Agent Clark, the Wisconsin agent?

Answer. He was recommended by the secretary of the American Missionary Association at Chicago, Mr. Howard, acting for the American Missionary Association, and he was directly recommended to the Secretary of the Interior by Rev. Mr. Whipple, secretary of the American Missionary Association at New York. That association represents the congregational body.

(A question was here put by counsel, having reference to the reasons for the dismissal or suspension of Agent Clark; but it was ruled out by the court.)

Question. About how much pine was there at Court d'Orielles?

Answer. I have had different estimates. Mr. Laird, when first conversing about it, said that he was satisfied there were 100,000,000 feet, and that, estimating it on that basis, he could afford to offer \$100,000 for it. It is on the Chippewa River, north of Eau Claire, and its market would be at Winona.

Question. How does that pine compare as to accessibility to market with the Leech Lake pine?

Answer. I am not familiar enough with that country to say, but I

suppose it would be easier, so far as distance goes ; but there might be difficulty in driving.

Question. Had there been any conversation between you and Commissioner Walker to the effect that Wilder should be offered the whole of this pine ?

Answer. No.

Question. Had there been any discussion on that subject ?

Answer. No. The only allusion to it was my statement that the Pilgragers at Leech Lake needed help from Congress, notwithstanding the proposed sale of the pine on the river Mississippi, because that sale was not for their benefit.

Question. You were asked something with reference to the cancellation of the Clark contract. Did you cancel it, or send a telegram to cause its cancellation, because you knew that a higher bid had been made ?

Answer. No ; when I sent that telegram I did not consider it final. I said in the telegram, " This seems to nullify the sale." The telegram as given here is defective, I think. I did not consider it as impossible for Clark to persuade these Indians that it would be for their advantage to sell their pine to him ; and except for the instructions from Washington advising me that Wilder had offered \$1.60, I should have so informed him.

Question. Did you inform Welsh of what you have now said ?

Answer. I had many conversations with him on this point, and tried to give him exactly what I have said here. I went into the matter somewhat minutely as to the Clark telegram, and as to my finding my mail at Brainard after I had sent the telegram ; and that, up to that time, I had never seen Wilder, nor had even heard of him. This was in my office at Washington.

By Commissioner JONES :

Question. You have said that pine land is not usually sold at Government sales for more than \$1.25 to \$2.50 per acre.

Answer. Yes, the combination among the bidders prevent higher rates. The land is worth more than that.

Question. What is considered the average yield of pine of a fair quality ?

Answer. I have always understood that about 5,000 feet per acre was good, running up to 15,000 feet per acre.

The respondent, E. P. Smith, here addressed the court as follows :

I desire to say to the court that the editor of the Saint Paul Dispatch has accused me of mal-administration, and still does so, and, therefore, before this court concludes its investigation, it would be my desire that the editor should be summoned, so as to give him an opportunity of repeating his accusations on oath, and so as to afford me the opportunity of answering them.

Mr. Commissioner Smith, on behalf of the court, replied as follows :

We do not think we can properly be called upon, nor are we required upon our own motion, to issue a subpoena for Mr. Hall. He appears, as a prosecutor, by counsel, and has, since the commission met, formally withdrawn ; and, through his attorney, has advised us that he does not recognize our authority to compel the attendance of witnesses. His position is different from that of Mr. Henry M. Rice, and the issuance of a subpoena for Mr. Rice is not a precedent for the present request. Mr. Rice was one of the witnesses named by Mr. Welsh, the prosecutor, and had not, previous to the issuance of the subpoena, notified us of his refusal to attend. While this commission may not possess the full powers of a congressional committee, the results of its deliberations and findings are quite as important to the accused. If our investigation and report should sustain the charges, or any of them, the official decapitation of Mr. Smith would be as effectually brought about as would a like finding by a committee possessed of more plenary powers. This the gentlemen prosecuting

and procuring the institution of these proceedings understand. If Mr. Hall, or any one else in possession of documents material to this investigation, so important to the public, and of such serious consequence to the accused, sees proper to take the responsibility of suppressing such testimony, upon the quibble of a want of power on the part of the commission to compel his attendance, it appears to us that he overestimates his own importance, and does not properly appreciate the intelligence of the people.

Mr. Hall has, however, given us and the public copies of documents long since furnished us by the Interior Department, and no one pretends that he has any personal knowledge of any fact that we are authorized to investigate.

We decline, therefore, to issue the desired subpoena. If the accused desires the attendance of Mr. Hall, and supposes his testimony material to the defense against the charges already made, we think a subpoena should be issued, but not otherwise.

Judge PALMER, counsel for the respondent, requested that it be made a matter of record that the accused had preferred the request that Mr. Hall should be summoned.

The court adjourned till 2 o'clock on Monday, 15th instant.

WEDNESDAY, *December 17, 1873.*

At the commencement of the session this morning, at 10 o'clock, several witnesses, Indians, accompanied by their agent, Rev. Mr. Douglas, and their interpreter, Mr. T. A. Warren, made their appearance in response to the summons of the commissioners, together with the native missionary, Rev. Emmegabo, (baptismal name, John Johnson.)

Commissioner Jones having expressed the desire that the Rev. John Johnson should be first called as a witness, the latter desired to know for what purpose he was to be sworn. The commissioner answered through the interpreter as follows: "Tell him we wish to know if he knows anything about the matter which we are assembled to investigate, and that we will answer him, through you, any questions he may desire to ask."

The interpreter here informed the court that several of the Indians present objected to Rev. John Johnson being first examined.

Commissioner JONES. It makes no difference to us. If they desire to have one of the others examined first let it be so.

The interpreter was sworn at this point.

INTERPRETER, (to the commissioners.) It seems the chiefs don't want Mr. Johnson to be examined unless they know what he is to testify about.

Commissioner JONES. State to these gentlemen that our object in examining Mr. Johnson first was on account of his speaking English; and we rather expected that he was to be the interpreter.

(The chiefs here held a consultation among themselves, lasting some minutes.)

Commissioner JONES. State to these gentlemen that this is not a meeting for consultation or council; that it is like a court of justice, and is for the purpose of examining into certain charges which have been made against Mr. Smith, their former agent, with respect to the sale of their pine.

(The interpreter, having explained to the chiefs these observations of the commissioner, said that it was the wish of the chiefs that some one else should be examined first.)

Commissioner JONES. I understood that they objected to Mr. Johnson being sworn. How is that?

INTERPRETER. The Indian on your right there says that he would like to say a few words. He says that Mr. Johnson is their missionary and

teacher, and they do not know what to make of it. He might, perhaps, be arrested for what he would say. They think he is a man who would tell everything that he knows, and he wants you to think he is a man whom you can trust. He says: "You have sent for us, and we depend upon you. We want you to do us justice. I have always thought I would like to understand law and things, and that is the reason you see me now. When you ask me questions, I am not able to answer immediately. I want to see that I am right before I answer. Now, I want to ask you a question. You have sent for us to come, and we have come a great way, and we see that it is a great expense to bring us down, and it looks as if there was something in it. Have you got the power to send for us, and do with us as you want to now, according to law?"

By Commissioner JONES. Say that we sent a dispatch to Mr. Johnson, asking him to bring down a few good men, if there were any there, who had information concerning the matter we are investigating against Mr. Smith. We made a request to Mr. Johnson to come, and bring four or five men who had information that was material, and told him that the Government would pay their expenses.

Commissioner SMITH. "Certain things have been said against your former agent, Mr. E. P. Smith, and the Great Father at Washington has directed us to see whether these things are true; and so we have sent for you."

One of the Indians here said: "We prefer that the questions you want to ask should be asked of us. Mr. Johnson's business is different from ours."

Commissioner JONES. We will examine another Indian first.

(Mr. Johnson retires for the present from the witness stand.)

An Indian having here presented himself for examination, Commissioner Jones asked, through the interpreter, whether he understood the nature of an oath.

INTERPRETER. He says that an Indian does not know what an oath means.

Commissioner JONES. Explain to him what it means. (This was done by the interpreter.) Now tell him to stand up and hold up his right hand.

(Here the oath was administered by Mr. William Wilson, notary public.)

INTERPRETER. I cannot interpret the word swear.

Commissioner JONES. Explain to him fully the nature of your affirmation, and his responsibility—that he promises before God to testify the truth and the whole truth. The explanation having been given, and the Indian having signified that he understood it, the commissioner directed that he be affirmed accordingly.

MESHAKEGESHIG, having been duly sworn, testified as follows:

By Commissioner JONES:

Question. Ask him his name and age.

Answer. His name is Meshakegeshig. His age he does not know anything about.

Question. Where does he live.

Answer. At White Earth now.

Question. Do you belong to the Chippewas?

Answer. I think so.

Question. Are you a chief?

Answer. Yes.

Question. How long have you lived at White Earth?

Answer. Five years.

Question. Where did you come from?

Answer. From the Mississippi, at Rabbit Lake.

Question. Were there any improvements at White Earth when you came there?

Answer. There was some land broken, and a few houses erected; don't know how many; I went through the village, but could not say, may be ten houses.

Question. Do you know Agent Smith?

Answer. I may have seen a man of that name.

Question. I mean the agent that was there before Major Douglas?

Answer. Yes; I did know him.

Question. There was a contract made for the sale of the pine on Leech Lake reservation while Mr. Smith was agent; do you know anything about it?

Answer. No.

Question. It is charged that Mr. Smith had something to do with stopping the sale of pine in Wisconsin belonging to the Chippewas; do you know anything of that?

Answer. I heard something about it. Somebody read to me something from the papers; that is all I know.

Question. Have you any knowledge of Mr. Smith having done anything wrong in connection with either of those things; and, if so, what?

Answer. All I know about it was what I heard from Leech Lake Indians. We heard that they were dissatisfied about their pine; but I don't know anything about the operation; but, from what I heard, I thought there might be something wrong about it.

Question. Whom did you hear talk about it?

Answer. A chief from Leech Lake came from there to White Earth, Nebinuddick by name, and it was from him I heard directly.

By Commissioner SMITH:

Question. Did you hear white people talk about it?

Answer. If they talked English I would not understand them, or what they were talking about.

Question. But they might talk in Chippewa?

(Question not answered.)

By Commissioner JONES:

Question. Have you been round Leech Lake? Are you acquainted with the country there?

Answer. All I know about it is that I have been there, at the agency, and I saw the lake.

Question. Do you suppose it was for the interests of the Indians interested to make a sale of the pine in that reservation? Have you the means of knowing whether it would be to their interest?

Answer. Knowing my fellow-Indians, maybe I might say what they think about it. They think that if a certain amount of money was paid on the sale for that pine we would never get the money into our hands.

Question. Suppose there was a sale made so that \$20,000 would be realized each year and applied to their benefit every year, to advance them in civilization and improvement; would that benefit the Indians?

Answer. I don't think the Indians would get the whole benefit of it.

Question. Suppose they did get the whole benefit, would that be an advantage?

Answer. No, sir; there is not enough to do any good.

By Commissioner SMITH, (to interpreter :)

Question. Does he know how much \$20,000 a year would be for ten years ?

INTERPRETER. Yes, he knows, because they count money by boxes ; \$1,000 in each box. He knows the number of boxes.

Question. Ask him if he does not think that 200 boxes of \$1,000 in each box would benefit them.

(The question was not answered in words, though it probably was by signs.)

Question. If the White Earth Indians were to get \$5,000 a year for schools, teams, and improvements, would not that be of some use ?

Answer. Don't know how they could get benefit from it. Cannot answer that question.

Question. Suppose the Indians round Leech Lake were without any teams, any farm implements ; suppose the game was gone, and there were no berries, would not the sale of the timber help them ?

Answer. It is a question that I cannot answer, because I have not been at Leech Lake for some time, and don't know exactly in what situation they are. I cannot answer.

Question. If you at White Earth got \$10,000 a year—the regular annuity money is \$6,000 a year ; that is, six boxes, besides money for schools—would it not do you good if you had five boxes more every year, almost as much more ?

WITNESS, (to Commissioner Smith.) I want to ask you a question. Do you think we could get that \$5,000 a year over and above the annuity money ?

Commissioner SMITH. Suppose you did get it, would it do you good ?

Answer. I don't think we should get any benefit from it, because we should have to spend all this money to get along. They get things on credit, and when I get money I have to pay it right out.

Question. Where do your teams and plows come from ?

Answer. You would have to ask somebody else. So far as I am concerned, I got a wagon from Bishop Whipple, and I have a plow. When I first moved there I received that plow from the agent—the agent at that time.

Question. Where do you get your clothes from ?

Answer. The overcoat I have on was from part of the annuity ; the other coat under it was given to me by Mr. Johnson.

Question. Would it not be a benefit to you to get money besides annuity money, to buy clothes and plows ?

Answer. Yes, if I could see any way to do that and not depend upon the annuity money, I should like it.

Question. Have you any use for the pine timber yourselves ?

Answer. I don't see how we have.

Question. Have you any idea what it would take to make a thousand feet of lumber ? How many trees ?

Answer. Yes ; I know enough about it to know that. I have been after lumber and have hauled it, and know how much 500 feet or 1,000 feet is.

Question. Could you give us any idea of the size of the trees that would make 500 or 1,000 feet ?

Answer. Not precisely.

Cross-examined by E. P. SMITH :

Question. How many Pillagers have you seen this summer from Leech Lake ?

Answer. The only two I saw was when you were there at White Earth, and another who came there this fall.

Question. You say you received a plow when you first came to the reservation ; have you had anything since ?

Answer. If I had been asked the question in such a way before, I would have told what I received from somebody else. I was asked what I received when I got there, and I told that. I got a pony or horse ; I got a yoke of oxen, but that yoke of oxen, I understood, was given to me because I removed myself at my own expense to that reservation, and I don't think I derived any benefit except from my own work.

Question. Don't you think oxen cost anything ?

Answer. Of course ; I think that they cost money. My idea is that they were due to me from the Government for my removal, and somebody asked me if I would like a yoke of oxen, and I thought they were given me for nothing.

Question. Did you have more than one yoke of oxen ?

Answer. All I had was one yoke of oxen, but I got a couple of heifers through a trade that I made.

Question. Did you not have two yoke of oxen and a wagon ?

Answer. I have a wagon.

Question. Have you a house ?

Answer. Yes.

Question. Any plowed ground ?

Answer. Yes ; I have some land under plow that was broke two years ago.

Question. Did not you have a yoke of cattle when you first went there, and one since ?

Answer. Yes ; you gave me a yoke ; but I was thinking of what I had before.

MINEGESHICK, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. Where do you live ?

Answer. At White Earth.

Question. When did you go there ?

Answer. This winter will be the sixth winter.

Question. Are you acquainted with Major Smith ?

Answer. Yes.

Question. Do you know anything about these charges against him ?

Answer. I have heard a great many stories about it.

Question. Are you acquainted with the country about Leech Lake ?

Answer. I have never been there.

Question. Have you ever heard about the contract for the sale of the pine timber there to Mr. Wilder ?

Answer. Yes, I have heard something about it ; nothing very particular, but I know that was the talk.

Question. Do you know what the contract was ?

Answer. Never heard what the contract was, only that there had been a contract.

Question. Do you know of anything wrong that Agent Smith did ; and, if so, what ?

Answer. If I had seen him do anything in that way I would be able to say what ; but not knowing, cannot say.

Question. Are you a chief ?

Answer. Yes.

Question. In your opinion would it be a good thing to sell the pine in the Leech Lake country if \$20,000 a year could be had until the pine was all taken off ?

Answer. I cannot say, only in this way : It is a good deal of money, and if properly expended, and they appreciated it, it might do the Indians good, but to say that it would do them good I cannot.

Question. Had the people at Leech Lake any farm-lands or means of support there ?

Answer. I have never been there, and cannot say.

Question. I understand that about one-fourth of this pine money would come to the Indians at White Earth. Would it be a benefit to them to get that much each year to help in farming and improvements ?

Answer. Money is good for the Indians if they know how to appreciate it ; if they work and earn money by the help of that money it would do them good, but any other way it would not do them good.

Question. Do you think that money has been expended at White Earth so as to do good to the Indians ?

Answer. I reason that a great many Indians there are in a good state now ; they have worked with the assistance of the money that has been placed there for their benefit.

Question. How many houses were there at White Earth three years ago ?

Answer. Thirteen.

Question. How many are there now ?

Answer. A great many ; could not say ; could not guess.

Question. How much land was broken up three years ago ?

Answer. There was a piece of ground where I lived that was called " Mille Lac Indian land," of eight acres, and another field ; don't know how many acres there.

Question. How much is there now ?

Answer. I cannot tell ; I know I have ten acres broken myself.

Question. How much had you three years ago broken up ?

Answer. One acre.

Question. What have you besides the land now ?

Answer. I have a house, a yoke of oxen, a wagon, a pony, and about 200 bushels of wheat.

Commissioner SMITH: We only want to find out if you are in a good condition ; not for the sake of finding out what you possess for any other reason.

Witness. I understand.

Question. Do you believe the plan of paying Indians for working is a good one ?

Answer. The way I feel about is this : I know that those who are placed there to assist those who are willing to work do right, and that to any man who will work it will be good ; I think it is good ; every one who will work will say so ; but some will not work, and will find fault with it.

Question. How much land have you broken this year ?

Answer. I did not break any new land this year.

Question. How were the crops this year ?

Answer. Good.

Question. What is the general condition of the people at White Earth.

Answer. The main thing that all of them want is plenty to eat, and I think we have plenty. They are well off, as far as that is concerned, because they had good crops; and all the trouble they had this fall was sickness.

Question. Are they as well off as they ever have been?

Answer. Cannot answer for all: So far as I am concerned I have always been poor, and part of the time I had not enough to eat, but now I have plenty.

Question. What was the reason that you used to be poor?

Answer. The reason was that I did not know enough to leave off the old habits of my ancestors, and when I found out that I could do better by leaving them off, I was better off—I mean by the old habits, hunting and fishing. The first who got me to take to working was Mr. Bardwell, who came there as agent, and who gave me good advice.

Question. When was that?

Answer. Four years ago.

Cross-examined by E. P. SMITH, (the respondent:)

Question. You remember when the Gull Lake Indians came on a visit?

Answer. Yes.

Question. How much money used they to get there each year?

Answer. Ten dollars.

Question. Did that \$10 do as much good as it does now?

Answer. It did them good if they knew how to spend it.

Question. Suppose they had twice as much as that and had stayed there, how would it compare with their condition at White Earth?

Answer. I don't think it would be worth anything; that \$20 would not be sufficient there or to get what I now have.

MOCUDJEWENCE, having been duly sworn, testified as follows:

Question. Where do you reside?

Answer. At White Earth.

Question. How long have you lived there?

Answer. For six winters, this winter.

Question. Where did you come from?

Answer. Gull Lake.

Question. Are you acquainted with the people at Gull Lake?

Answer. I know a few of them.

Question. How were the Indians living there when you left?

Answer. Different from our present mode of living.

Question. How is that?

Answer. There were some that cultivated little patches of ground; some that did not.

Question. What had you when you came to White Earth?

Answer. Before leaving I had made up my mind that I would like to live differently from others, and I had things of my own; and when I left Gull Lake I had three young cattle and some tools that I had collected to build a house with when I went up there.

Question. What have you now?

Answer. I think that now I have a little of everything that I want, and I am sure that I can get along.

Question. How much land have you there?

Answer. I don't know exactly as to acres, but I think I have somewhere about 8 acres.

Question. Have you teams and wagons?

Answer. I have cattle and a wagon ; asled, or something of that kind, for different seasons, one for summer and one for winter.

Question. How many cattle have you ?

Answer. Seven head altogether.

Question. How much grain ?

Answer. Forty bushels of wheat.

Question. How many potatoes ?

Answer. Did not measure them ; I think I know that I hauled three wagon-loads.

Question. Would it be an advantage to the Indians at Leech Lake if their pine were sold, and the money obtained were applied to the purchase of implements and teams, and for supporting schools and making general improvements ?

Answer. Yes ; that is, if they were told beforehand what was to be done, so as that they could understand and see what was going on, and if they made up their minds to accept it.

Question. Were you present when Agent Smith mentioned at the council last summer what the contract with Wilder was ?

Answer. Yes, I was there, but could not repeat what was said.

Question. Do you know of anything wrong that Mr. Smith did with reference to that contract ; and if so, what ?

Answer. The only thing I thought wrong was, as the others have said, that they should have been told and asked their opinion about it, and if their consent had been obtained they would have felt better about it, but I do not claim that Indians know enough to make a bargain of that kind ; still, miserable as they are, they would like to know what the bargain was before the sale was made.

Question. Would there be any difficulty in getting all these Indians to agree as to the share which each man should have ?

Answer. No, they could never agree.

WAH-BON-AH-QUOT, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. What is your name ?

Answer. Wah-hun-ah-quot.

Question. Where do you live ?

Answer. I used to live at Gull Lake, in a very miserable, poor state ; but my father raised my hands to put me at White Earth, and now I am better off. That will be six years ago this spring.

Question. What have you to say as to the general condition of the people at White Earth now ?

Answer. All those who planted and made gardens are well off, but those who did not do so are not well off.

Question. Do you know anything of the contract to sell the pine at Leech Lake to Wilder ?

Answer. Yes.

Question. How do you know ; by hearsay ?

Answer. I think I got what I know from good authority, (here witness pointed to respondent.) I got it from Agent Smith.

Question. Have you the means of knowing whether that contract was beneficial to the Indians ?

Answer. If the work should go on, and the contract be carried out, I don't think it would be beneficial to them, they not knowing what it is for. They would not know how to make use of the benefit ; and, not knowing, I think it would be an injury to the Pillagers.

Question. If the White Earth men are to receive one-fifth of the proceeds of the sale, how would that affect them?

Answer. I won't answer that question just now; I want to state something more about the Pillagers. I meant to convey this idea: They have a share in the reservation with other Indians; and the reason why I don't think they would derive benefit was because they would have to have an understanding with all the bands that this sale was for their benefit; because there may be some who would not understand that the White Earth Indians had any interest in it; but the Leech Lake Indians have a certain interest of their own; and if there was a bargain made by which they would benefit, it would do them good; I mean the Pillager Indians. As to the one-fifth, I know what five boxes are; that is, \$5,000. It looks like a big sum, but come to divide it it could not do much good; it is too small.

Question. Suppose the amount was spent, as they have already spent money at White Earth, in procuring farm implements, and in making improvements, and in supporting schools; suppose they had twenty wagons more; if the \$5,000 were spent in that way, how would it be?

Answer. Yes; anything of that kind that they could see for themselves would be for their benefit.

Question. Do you know how the Pillager Indians supported themselves two years ago?

Answer. Yes; coming down on the railroad (Northern Pacific) I saw wigwams; that used to be the way they lived formerly.

Question. How as to the game now; is it becoming scarce?

Answer. Yes.

Question. In your judgment is it their interest to obtain money so as to furnish teams, build houses, and make improvements, as has been done at White Earth?

Answer. That is just the question I wanted you to ask, and I will tell you all about it: They will say I have always spoken to them in this way, not only for our people at White Earth, but for all Indians around us. They have not taken hold of work as we have, and I have always called upon them to assist the Indians around us; that is, the Pillagers and others, and they know how I feel about it. I have made up my mind that we got much benefit from the teachers, schools, and churches, and that had more influence with us than anything else; and, I think, if you could put the same things among other Indians, they would take what we are taking.

Question. Suppose this pine timber could be sold at a fair price, and that the money was equally divided among all those tribes according to their just rights, and expended for teams, for schools, and for making improvements generally, do you believe it would be a good thing to make the sale?

Answer. Yes, that strikes my idea exactly. I think, I know, it would be a great benefit to the Indians if the pine were sold and the money were expended in that way. At the same time it would make them feel better if they knew what it was sold for, and they were asked to make the bargain, and had some say in it.

Question. Do you know anything that Agent Smith did about that sale that was wrong; and if so, what?

Answer. I was satisfied with the trade as I heard of it. The only thing I felt a little was because I was not asked to consent. That is all.

Question. We understand that this matter was ordered by the Government at Washington. When did Mr. Smith tell you about the sale?

Answer. A year ago this last fall.

Question. Where ?

Answer. At White Earth.

Question. Was it told to your people generally, or to you alone ?

Answer. It was in council.

Question. Was there any objection made to it at that time by anybody ?

Answer. The objection was made by me in this way: I was not satisfied that we had not been consulted.

Cross-examined by E. P. SMITH :

Question. Do you remember my talking with the Indians about the sale last summer, when I came from Washington ?

Answer. Yes.

Question. You remember what I told you about the pine at White Earth ?

Answer. I could never forget what you said then, I was so pleased with the advice that you gave us, and at your saying that, so long as you were in the position that you are now in, you would not allow them to sell the pine belonging to us.

Question. Do you remember my explaining to the Leech Lake delegation about the sale of their pine ?

A. Yes.

Question. Do you remember what the Leech Lake Indians said ?

Answer. Yes; I think I remember a portion of it. In the first place, when you had the talk with them, they asked you who it was that made this sale of this pine. Of course I cannot remember everything that was said, but I can give you the idea. You told them that it was the wish of their Great Father to furnish money to assist them in living a different life.

Question. Do you remember what they said in reply ?

Answer. The first reply was in a kind of joking way, (here the witness laughed,) that is what makes me laugh. The reply was, "You must take us for children, surely."

Question. Before we got through talking did they say what they thought about it ?

Answer. I did not see them after the council. I went home.

Question. You have seen a good deal of Indian life; how much money would it take to give them, cash in hand, to make farmers out of the Pillager Indians ?

Answer. I could not tell how much money it would take; but still I know that there are those there who, if they saw they were being assisted, and that money was given them for the purpose of their improvement, would work and make themselves independent. I think that, as at White Earth, there are some who think you want to better their condition, and that if they had assistance from the Government by having a yoke of oxen and tools for farming purposes given them you would see a great difference in them in a short time. (To the commissioners:) You called me up here on the stand and I took my solemn affirmation and called on God to listen that I told the truth, and what I have now said is the truth.

Commissioner JONES. We have no doubt of that.

BAY-KIN-A-WASH, having been duly sworn, testified as follows:

By Commissioner JONES :

Question. Where do you live ?

Answer. At White Earth.

Question. How long have you lived there ?

Answer. This is the second winter.

Question. Where did you come from ?

Answer. Gull Lake.

Question. Did your band come from there with you ?

Answer. A few ; part of the band ; others remain ; forty-five came with me, counting my own family.

Question. Have you heard of this sale of the Leech Lake pine ?

Answer. I have heard at different times about it—a little at a time.

Question. What is your opinion as to its being advantageous to the Indians to sell that pine at a fair price, so that they could have the money to spend in making improvements—in procuring the means of civilization generally ?

Answer. Yes ; I think it would be a benefit to the Indians. I think in this way : If the money that was promised for their pine was used in a proper way for them, it would benefit them.

Question. How is that ?

Answer. I think the only benefit that they could derive from it would be in agriculture ; but at the same time it would be a good thing for these same Indians—Pillagers—to sit round as we are sitting now and talk about it, and have an understanding about it.

Question. What is your opinion as to the manner in which money has been expended in buying cattle, building houses, providing schools, and breaking land ?

Answer. That money is expended in a right way ; but, as I said before, they want to feel satisfied as to the amount expended ; they want to be talked to about these things, and to be shown that there is so much money expended, though, even then, some of them may find fault.

Question. If the bands were to attempt to agree as to how the money was to be spent, don't you think that the Government would be obliged, after all, to settle the matter ?

Answer. I think that the Indians, if they were called together—the different bands—and talked to, and sat down as we are sitting, and everything laid before them, they have sense enough to know how to divide it.

Question. The question as to how money is to be divided has not been settled by the Government, and it is probable that the Government will give the Indians the privilege you speak of—of agreeing among yourselves. Are you familiar with the condition of the Indians at Leech Lake, and what their means of livelihood are, and what the supply of game is now ?

Answer. Yes.

Question. State what you know about that ?

Answer. I only know that all they have to do is to walk round with a gun and try to kill something for their children.

Question. Is the game abundant or diminishing ?

Answer. It is getting very scarce.

Question. Do you know of any way of the Indians being supported unless that of the Government supporting them ?

(Question not answered.)

Question. Considering the situation just as it was, was it the interest of the Indians to sell this pine so as to obtain the means of their livelihood ?

Answer. Yes. They have means enough for their support. They have means in their pine. That is the last thing they have. All they want is justice in the way it is disposed of.

Question. Do you know what sort of a lake Leech Lake is?

Answer. I went there but once and saw it, but did not go around it.

By Commissioner SMITH :

Question. Do they raise any crops of wheat there?

Answer. I think not; not wheat; don't know much about how they get along. I only went there once.

Cross-examined by E. P. SMITH, (respondent :)

Question. What have you now at White Earth and had you when you came there?

Answer. I had nothing to feel proud of when I came; nothing to brag of. Now I have not a great deal, but I am proud of what I have. I have potatoes, 60 bushels. The only thing that makes me feel sad is that I lost some of them by being frozen. I had over 60 bushels.

Question. How much land have you in fence?

Answer. Very nearly five acres. You (interpreter) measured it for me last fall. That is in one patch. I have another patch of about an acre and a half. I have besides what I think is a house. I have a yoke of oxen and wagon that were given me, but they are almost dead. I have to work them so hard to get along.

Question. Have you any children at school?

Answer. No, not now, but I had for a short time. The teacher moved and the school was now too far away.

ISAAC MANIDOWOB, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. Where do you live?

Answer. I used to live at Gull Lake. I now live at White Earth.

Question. Have you been baptized?

Answer. Yes; twenty years ago.

Question. How long have you been at White Earth?

Answer. Six winters.

Question. What do you think of the condition of the people at White Earth; is it as good as it has been?

Answer. I think they are better off, and that they are getting better off; and so long as they have work to do they will keep on getting better.

Question. What is their condition as compared with that of the Indians at Leech Lake?

Answer. Those at White Earth are better off; cannot see what they can brag of at Leech Lake.

Question. Have you been enough at Leech Lake to know their condition?

Answer. I was born and brought up there, and know all about them.

Question. When were you there last?

Answer. Quite a while ago; ten years ago.

Question. Do you know how game is there now?

Answer. There is nothing there but fish.

Question. Would it be an advantage to them to have the pine sold, so as to have money to buy implements and to have schools, farms, and improvements generally?

Answer. I think it would be; that is if the sale of the pine was made and what it was sold for given to them—that is, the whole amount.

Question. What would be the best way to expend the money?

Answer. What I know about that is this: they would like to have the money in hand—their own hand; that is their wish.

Question. How do you think would be the best way?

Answer. It would do them more good—that is, they would derive more benefit—if the articles to be made use of were bought for them.

Question. How do they live there?

Answer. I saw quite a number of them on the Northern Pacific Railroad lands hunting. That is how they live.

Question. Have they any houses?

Answer. I did not see any.

Question. How do they dress?

Answer. Just the same as I used to when I was wild.

Question. Do they wear the “breechclout?”

Answer. Yes; none were dressed as we are except now and then one.

Question. Have you heard of this contract for the sale of the pine up there?

Answer. Yes.

Question. Do you know of anything that Agent Smith did that was wrong about that contract; and, if so, what?

Answer. I heard about it. The only thing that I did not think was right was his making the trade without our consent, without asking us. I know how I would feel if anybody went and sold any of my private property, and I think you would feel the same way.

Question. Were you there last summer when Agent Smith stated what the contract was?

Answer. Yes.

Question. Did he state what the contract was there?

Answer. Yes; I heard him.

Question. Suppose the timber were sold for a fair price and the money divided among them all, according to what each is entitled to have, and that it was appropriated for the purchase of implements for farming, and for cattle, schools, and improvements, do you believe it would be to their advantage to sell the timber, or not?

Answer. Yes; it would be to their advantage.

Cross-examined by E. P. SMITH, respondent:

Question. Did you raise a crop last year?

Answer. I did not raise anything. The grasshoppers ate up everything.

Question. Was that the case with most of the Indians?

Answer. Yes; they cleared everything out.

Question. How was it the year before?

Answer. I raised good crops myself. Mine came all right.

Question. How was it with the others?

Answer. I think they raised good crops.

Question. How did the people live without crops last year?

Answer. Everybody had to shift for himself the best way he could. A great many got credit from the stores.

Question. Have you seen any one at White Earth making inquiries about the Indians and writing for the papers, lately?

Answer. Yes; I saw a man there.

Question. Did he talk to you about it?

Answer. Yes; I had some conversation with him.

Question. Have you seen any statements made by him; have they been read to you?

Answer. Yes.

Question. Was what you said to him correctly reported in the papers?

Answer. I cannot say exactly what I did say to him. I did not have a great deal to say to him. I told him to use his own eyes and make his report. He did not come to my house.

Agos, having been duly sworn, testified as follows :

Question. What is your name ?

Answer. Agos.

Question. Where do you live ?

Answer. I came from the same place ; White Earth.

Question. How long have you lived there ?

Answer. This winter is the third winter.

Question. How are you getting along ?

Answer. I live in a house, and went there through the advice of Mr. Smith, who had the house built for me.

Question. What family have you ?

Answer. Eight children.

Question. Do any of them go to school ?

Answer. No.

Question. How much land have you broken ?

Answer. I think about three acres.

Question. Do you know anything of the Leech Lake country ?

Answer. Yes.

Question. When were you there last ?

Answer. Five years ago.

Question. How do the people live there ?

Answer. They set their nets and catch fish and live on fish.

Question. Would it be for the advantage of the Indians there to sell the pine for the purpose of building houses, buying teams, providing schools, purchasing farm implements, and making improvements, the same as at White Earth ?

Answer. I think it would be a great benefit to them if they were treated fairly in the arrangement. At present they have nothing to depend on.

Question. What do you mean by "being treated fairly ?"

Answer. I mean by that, that whatever the pine brought, they should get the benefit of it, fully.

Question. Do you believe it would be best to give them the money, or to purchase implements and provide other things for them ?

Answer. I will say my own mind about that. It would be better if the money were expended for articles necessary, but the majority would rather have it the other way. There are a great many ways in which they can spend their money. They would not have the money a great while in their hands.

Question. Are your children grown up ?

Answer. Yes, most of them.

Question. Have they families themselves ?

Answer. I support four of them. The rest take care of themselves.

Question. How far do you live from the school ?

Answer. About four miles.

Question. Were you present at the council last summer when Agent Smith said what the Wilder contract was ?

Answer. Yes.

Question. Did you think that that contract would be for the benefit of the Indians, if the money was fairly divided among them, and if it was appropriated for the purposes to which it should be?

Answer. Yes; as I said before, if the money was appropriated as it was promised it should be.

Question. Do you know of anything wrong that Major Smith did with respect to that sale; and, if so, what?

Answer. I am not man of business enough to say what he was to do; but I think it would be for the benefit of the Indians if carried out right; and the only fault I could find was the not being called upon or consulted before the bargain was made.

Question. What is your judgment as to whether it would be difficult to get the Indians to agree among themselves as to the sale, and as to the division of the money, and as to whether the Government would not have to settle it at last?

Answer. There are a great many minds among the Indians, and I think it would be hard to get them to think one way. I know a great many who would think favorably of anything of that kind; but I also know a great many who would be against it.

By Commissioner SMITH:

Question. I believe at the Sioux outbreak you saved the lives of many white people?

Answer. I was a man to speak to the Indians who were going to murder white people, and what I said was the means of saving their lives.

Question. That was proved to be so in court, I believe?

Answer. Yes.

TAY-CUM-ME-GE-SHECK, (Indian,) having been duly sworn, testified as follows:

By Commissioner JONES:

Question. Where do you live?

Answer. At White Earth.

Question. How long have you lived there?

Answer. Five years. I came from Gull Lake.

Question. Are you acquainted with the Indians at Leech Lake?

Answer. No.

Question. Were you present at the meeting last summer when Agent Smith explained this contract with Wilder for the pine?

Answer. Yes.

Question. State your opinion as to whether it would be advantageous to the Indians to make that sale, if the money were divided among them equitably, and appropriated for implements, for teams, schools, and improvements generally?

Answer. I think it would be a great benefit to them if they received everything. I was present.

Question. Do you know anything wrong that Agent Smith did with respect to the sale of this pine; and, if so, what?

Answer. I blame him for not having spoken to the Indians before making the sale.

Question. Do you think there would be any difficulty in getting all

the Indians interested in this pine to agree upon the terms of sale, or as to the division of the money between them ?

Answer. I think if it were explained to the Indians, altogether, so that they could understand it, there would be no difficulty in making a bargain of that kind.

Question. Do you think there would be no difficulty in getting the Indians to agree as to what share each man should have ?

Answer. (Witness hesitated before giving his reply, and then said :) "They could never agree ; they could never divide it."

Reverend Mr. JOHNSON, native Indian missionary, and minister of the Episcopal Church, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. Where do you live ?

Answer. At White Earth.

Question. What is your age ?

Answer. I cannot say.

Question. What is your occupation ?

Answer. I am a missionary, I think ; I hope.

Question. How long have you been engaged in that capacity ?

Answer. I have been under the guidance of Bishop Whipple fifteen years. I have been six years at White Earth.

Question. What was the number of your communicants when you began ?

Answer. About fifteen ; may be a little over. All those came from Gull Lake. The number now is one hundred and sixty.

Question. What is the condition of the people at White Earth, as to civilization, provisions, and general improvements ?

Answer. The way I see the people that are living there now, I think they are well off ; and I think they are still improving.

Question. What information have you in regard to the sale of this pine to Mr. Wilder ?

Answer. All I know is what I have seen in the papers.

Question. Have you sufficient knowledge of the character of that pine, and of the situation generally, to be able to give an opinion as to whether that contract was advantageous to the Indians or not ?

Answer. Cannot speak anything for others. I can only tell you what I think. I think I have seen enough of pine business carried on to think that more might have been got for that pine. I think it was too cheap ; that is my idea about it.

Question. Have you been around Leech Lake, so as to know the character of the streams and form an idea as to the difficulty of driving and getting the lumber out ?

Answer. I know of a certain river—canoe route—that empties into Leech Lake, and along that river there is a great deal of pine, and there would be no trouble in driving it down to the lake. There is a great deal of good pine around the lake ; it would take many years to exhaust it.

Question. Do you know what has been the market-price of pine-land in Minnesota, per acre ?

Answer. I do not.

Question. Do you know how many thousand feet there is of pine of fair quality per acre ?

Answer. No.

Question. Would you be able to say what an acre of fair pine-land should be sold for within one to four miles of driving streams?

Answer. No.

Question. How then do you arrive at the conclusion that this sale to Wilder was too low?

Answer. I know well enough about pine and pine operations to know that the timber about Leech Lake is very handy to the water, and that the timber is good. That is the reason why I think it is worth more.

Question. What do you understand it was sold for?

Answer. I think it was sold for \$1.15 per thousand feet; and the reason of my being positive in my opinion that that was less than the pine was worth was from what I learned from lumbermen as to the value of pine.

Question. Were they talking about the value of pine-land, or about the value of pine per thousand feet?

Answer. Yes; of the pine.

Question. Are you familiar with the Indians of Leech Lake?

Answer. I have been there several times.

Question. How lately?

Answer. Two years ago.

Question. What is the situation there, as to their means of support and civilization?

Answer. There are very few, I think, who are trying to better themselves in the way of agriculture, but I could not say that for the majority of them. I know they are poor, and I hardly see how they can get along.

Question. Was there necessity for selling the pine for the purpose of providing the means of supporting them and civilizing them?

Answer. Yes, so far as that goes, I think it would be a benefit; but the only thing I don't like now is this, that the Indians when they made bargains heretofore with the Government were always asked about it; and they have a jealous feeling about it now; they think they ought to have been asked about it.

(The examination of Reverend Mr. Johnson was here interrupted by Commissioner Jones, who recalled E. P. Smith, respondent, in order to obtain some information which would assist in the further examination of Mr. Johnson.)

Commissioner JONES to Mr. E. P. SMITH:

Question. I desire to ask you as to what Indians the pine belongs to; the Leech Lake pine, as the Government understands it?

Answer. It belongs to the Mississippi Chippewas, and to the Pillagers of Leech Lake, and the Indians of Cass Lake and Winebagoshish Lake.

Question. What do the Mississippi Indians embrace?

Answer. The White Oak Chippewas, Mille Lac Chippewas, White Earth Chippewas.

Question. State to these Indians what proportion belongs to them?

Answer. There are about 4,300 Indians to whom this pine belongs, and between 2,200 and 2,300 are Mississippi Chippewas, and as about all the pine on the reservation belongs to them on that estimate, it would appear that half the amount realized would be divided among the Mississippi Chippewas; but the Mississippi Chippewas at White earth are receiving a large portion of land, and it will be a question which will arise by-and-by what would be equitable as to them in the division of the amount received for the pine.

Question. Before this division is made will they all be consulted?

Answer. I could not say; It will be a question of expediency and practicability. It would depend, I think, upon the judgment of the agent as to what is best under the circumstances of the case. It would depend upon the decision of the Department of the Interior.

Reverend Mr. JOHNSON re-called.

By Commissioner JONES:

Question. Would it be difficult, or not, to get the consent of all the Indians that Mr. Smith refers to as having an interest in this pine as to the terms of sale and the division of the money?

Answer. There are a great many Indians whom it would be difficult to make understand about the agreement, and they would be against it. Those who understood, would, I think, give in willingly.

Question. Do you believe that there would be a difficulty in getting them to agree as to the division of the money?

Answer. They would probably have no difficulty in the matter if these Indians at White Earth were consulted by them, the wild Indians living at different places; but if it was left to the wild Indians, they could never agree on anything; if they called on these Indians, sitting round here, they could post them.

Question. Would the other bands be satisfied with what you would agree to at White Earth?

Answer. I think it would be the same with the Pillagers at Leech Lake, because it is the fact that they have sent to us often for advice, and want to do whatever advice we give them.

Question. Have you any reason to believe that Agent Smith has done anything wrong in making this contract, and, if so, what, in what he did about making it? It is claimed by him that the selling without the Indians' consent was done by the authorities at Washington.

Answer. I cannot say that I have any reason for saying that he did wrong, only in so far as they (pointing to the chiefs) have said about their not being consulted. We had made up our minds that we were born to it; that the land and all on it belonged to us, and could not be disposed of without our consent.

Question. As to applying the money for the purchase of things that were needed instead of giving the money to the Indians—how as to that?

Answer. The money has been expended for us by the agents of the Government. It has been spent for our benefit, according to the judgment of the agent who had it in his hands. I suppose the reason for this was because you cannot trust us to spend it properly. We are like children. I know that this is so often, but I think you could trust the chiefs sitting round here; but I could not say that for the majority, and so I think the better plan is to expend the money for us.

Question. Where were you born?

Answer. On English land, in Canada.

Question. Where were you educated?

Answer. In Illinois, at Jacksonville, Ill.

By Commissioner SMITH:

Question. Lumbermen tell us that in order to get the lumber out of Leech Lake it is necessary to build a steamboat, and that there would be a difficulty in getting it out the first year; what, under those circumstances, is your opinion as to whether \$1.15 is too little for that lumber?

Answer. A little steamboat there would, of course, be of great use,

and with it they could carry on the work very rapidly. It would not take more than a day—or two days—to carry all the lumber out of the lake.

Question. Suppose that what these lumbermen said was true—that it could not be got out the first year—what would be your opinion of the price of \$1.15 per thousand feet?

Answer. As I said before, I think the price is too little; because in thinking over the matter I don't know where the great difficulty would be in taking the lumber down; it is a good lake, and the river is good. I don't think the expense is in the way at all, and I think that \$1.15 is too low.

Question. Have you ever lumbered yourself?

Answer. I went on a drive once, and never got my pay for it.

Cross-examined by Judge PALMER:

Question. Do you know that Leech Lake breaks up later in the spring than the Mississippi?

Answer. Yes.

Question. How much later?

Answer. Cannot say for certain, but it is not much later, because the lake is shallow, and the springs strike through the ice and make it break up.

Question. Has lumber to be hauled through one summer and lie over the winter before it is got out?

Answer. A man who was cutting timber there, if he had a mind to take two years could do so, but a man could do it in one season if he wished to.

Question. I suppose you will admit that if the lumber stays over one year it is not worth so much as lumber got out the first year?

Answer. That is supposing, and I don't like to go on suppositions. When I see anything, I speak of it; but I don't like to speak on suppositions.

Question. I don't want you to say it would take two years, but if it did, would it not be worth less?

(Question not answered.)

Question. Have you seen any pine taken across Leech Lake?

Answer. No.

Question. Is Leech Lake River very crooked?

Answer. Yes, but the current is very swift.

Question. Do you know how much pine there is on an acre round Leech Lake?

Answer. I answered that question before; I know nothing about it.

Question. Do you know the price of pine land up there?

Answer. No.

Question. Did you own some land at Gull Lake?

Answer. Yes, half a section; it had some pine on it.

Question. What did you sell it for?

Answer. The white man, when he makes a trade, wants to make a good trade for himself and will mostly take advantage of those who are more ignorant than himself. I got cheated on that land. I got only \$300 for it.

Question. When did you sell it?

Answer. Four years ago.

Question. Was there lumbering pine on it?

Answer. Yes.

Question. What time is plowing done about the reservation at Leech Lake?

Answer. I don't know exactly; not much difference between that place and White Earth; about the last of April and 1st May.

Question. Have you seen Leech Lake solid with ice after the plowing was done?

Answer. No.

Question. Have you seen cattle driven over on the ice to do the plowing?

Answer. No.

Question. Have you been there at that time of year?

Answer. No.

By E. P. SMITH, respondent:

Question. How often have you been at Leech Lake?

Answer. Don't know, exactly; perhaps six times; about two years ago, last.

Question. What time of the year was it?

Answer. The last time I was there was in winter. When I was there before I used to go in a canoe, just after planting time.

Question. Were you ever there in the spring after the lake opened except in a canoe?

Answer. No; I don't remember.

By Judge PALMER:

Question. When you said the price was too low, was that because it was your own opinion?

Answer. I think I have answered that twice. I got information from others who know about pine, and I know something myself about water for driving.

Question. Where have those persons lumbered from whom you derived information?

Answer. On the Mississippi. Don't know exactly where. I have seen them on the Mississippi carrying on their business.

Mr. E. P. SMITH having invited Colonel Beaulieu to say anything, Colonel BEAULIEU, an Indian, in reply said: "I came down here as a spectator merely; I was not brought down. I came to listen and consider, and I prefer not to say anything as a witness." (This was spoken in Chippewa.)

Commissioner SMITH. If you have anything to say respecting the subject of inquiry we shall be glad to hear you. (To the interpreter.) Why does he speak in Chippewa? He speaks English.

Colonel BEAULIEU, (in Chippewa.) I speak in Chippewa because I am an Indian, and wish my people to know what I am saying. I do not think that this is either the proper time or the proper place for me to make any statements, and I would like to see your authority for calling me up to the stand; but I think the proper time will come after a while, and then I will speak. I came here to listen and am not now prepared to say anything.

Commissioner JONES. (To the Indians generally.) While we have only to inquire as to the charges before us, we shall be happy to represent to the Government at Washington anything that you wish us to represent.

No response from the Indians.

Rev. E. DOUGLASS, having been duly sworn, testified as follows:

By E. P. SMITH, respondent:

Question. At what time were you appointed agent at White Earth?

Answer. I received my commission 17th May. My agency covers the Chippewas of the Mississippi and the Pillagers; reached the agency 6th June.

Question. From whom did you first learn of the sale of this pine?

Answer. Two days after my arrival I learned it from official communications from yourself.

Question. What were you instructed to do?

Answer. I was informed of the sale and received a copy of the contract, and was instructed to proceed at the earliest moment to Leech Lake and explain the contract to the Indians. I went there on the 8th July. I had a large council, said to have been the largest in several years, except that held at the time of payment. I gave them a full and minute account of the contract as I understood it, and invited them to ask all the questions they desired to ascertain the meaning of the contract, and to make any suggestions to me as to the matter that they thought best. It was a lengthy council.

Question. Had you a copy of the contract?

Answer. Yes.

Question. What was the result?

Answer. No dissatisfaction was expressed, except that they had not been consulted previously, as has been stated here by these parties. That was the only ground of complaint.

Question. What is the condition of the Indians without help?

Answer. Without it I see no prospect of their making any progress in anything good or desirable.

Question. Have you received any funds from Mr. Wilder?

Answer. Yes, \$10,000.

Question. Had you any instructions with regard to that money?

Answer. Yes; I was instructed to deposit it in the United States depository to my credit as agent of the Government. I received it on 26th June, twenty days after my arrival at White Earth. I had a notification from the Department that this money was to be paid by Wilder to me, as agent.

Question. Had you any communication from Wilder?

Answer. I think I had, but am not positive. I think I had a communication from him to the effect that the money was ready.

Question. Was that near the time you came to the agency?

Answer. Yes.

WILLIAM B. DEAN, having been duly sworn, testified as follows :

By Commissioner JONES :

Question. State your name, residence, and occupation?

Answer. I live in this city, and am a merchant.

Question. Do you know, or have you known, S. N. Clark, the Wisconsin Indian agent?

Answer. Yes.

Question. Where did you last see him?

Answer. I traveled with him from Saint Paul to Chicago, on the railroad. That was a week ago last Tuesday; could not say the date. It was probably the 2d or 3d of December.

Question. Had you any conversation with him?

Answer. Yes. He said he had been advised by his physicians to leave this country on account of the long winter, as he required a warmer climate than this, and he thought he would finally reach one of the West India Islands.

Question. Did he say what route he was going to take ?

Answer. He said he thought he would go to Columbus; thence to New York, and thence to the West India Islands. He seemed certain he was going to Columbus; did not say where he was going to stop there, nor his object in going.

Question. Did he say Columbus, Ohio.

Answer. No; I inferred that that was so from the route he took.

Question. Did he say how long he would be there ?

Answer. He said it was indefinite.

Question. Did he say what he was going to do there ?

Answer. I think he said he was going to see some friends. He did not mention their names. I am certain of that.

Question. Do you know where to find him ?

Answer. I do not.

Question. Did he say anything to you with reference to the accusations against E. P. Smith ?

Answer. I talked of these Indian matters with him, as I knew he was conversant with them.

Question. What did he say with reference to those charges against Mr. Smith ?

Answer. He said he did not know much about them; but whatever they might be, judging from what he knew of Mr. Smith's past life he should hesitate to believe them.

Question. Had you much further conversation with him ?

Answer. No. He seemed quite ill and feeble. I don't know that these were his precise words; they were to that effect. My impression was that he referred to the charges that were made; but I should think he had not seen them, from his conversation. He was in a very feeble condition, indeed.

STATE OF MINNESOTA,

County of Ramsey, ss :

I, Wm. S. Wilson, a notary public in said county, do hereby certify that the above and foregoing testimony of Amherst H. Wilder, W. P. Jewett, N. P. Clarke, James Whitehead, Wm. P. Ankeny, John S. Pillsbury, Wm. P. Allen, T. B. Walker, John Dane Howard, F. P. Clarke, Mahlon Black, E. P. Smith, Mo-see-tuje-wance, Minne-ge-shick, Wah-lun-ah-quot, Mesh-a-he-ge-shig, Bay-kin-ow-wash, Isaac Munadowab, Agos, Cabiluse, Rev. Johnson, Rev. E. Douglass, and Wm. B. Dean, was taken before N. J. Turney, T. C. Jones, James Smith, jr., and W. K. Jennings, commissioners appointed to investigate the charges against E. P. Smith, as Indian agent, at the office of James Smith, jr., Saint Paul, State of Minnesota, between the 3d day of December, A. D. 1873, and the 18th day of the same month, both dates inclusive, upon verbal interrogatories. That it was reduced to writing by myself and Edwin S. Jackson, a disinterested person, (duly sworn by me to perform such service,) in my presence and under my direction, for the purpose of said investigation; that said deponents, before such examination, were severally sworn to testify the truth, the whole truth, and nothing but the truth relative to the matters pertaining to such investigation.

In witness whereof I have hereto set my hand and notarial seal this 20th day of December, A. D. 1873.

[SEAL.]

WILLIAM S. WILSON,
Notary Public, Ramsey County, Minn.

This concluded the evidence.

Commissioner JONES then made the following observations, which were interpreted to the Indians by Mr. Warren :

Say to these people, who have come down from White Earth, that we sent to Mr. Johnson, their missionary, whom we believe to be a good man, to ask him to notify half a dozen men to come down here to give testimony, if they knew anything about the matter that we were authorized to investigate by the Government. There had been complaints made in writing against Agent Smith, and one of the things complained of had reference to the sale of this Leech Lake pine in which they are interested; and after taking the testimony of such persons as we could find—persons supposed to have information in regard to that contract and of the value of the pine, to examine them as to that branch of the business. We knew that the President would be anxious, if they knew anything against their agent, to give them the opportunity to let it be known what it was in this regular manner.

We are very much obliged to them for coming, so that they can see how trials of this sort are conducted. We hope it will not be very long before the Chippewas and all other Indians who have controversies to settle, will have regular trials where witnesses are sworn; and we have no doubt that if they have any complaint to make against any agent, or against any officer of the Government, if they get Mr. Johnson to send it to the President, it will be inquired into, and justice done to them; or if they get anybody else, who will put the matter in writing and send it to the President, so that he may know what the complaint is. Of course, they know there may be groundless accusations, and that when they make a complaint the President expects that they will have good grounds for it, in which case the President will protect them against any who may seek to cheat them. You have plenty of good men among you, and when you send a good man to make your complaints he will always be listened to. Your rights as to the timber that has been sold to Mr. Wilder depend upon treaties which have been made with the Government, and upon the amount of money which you and other Indians have received, and any representations that you may make to the President he will be very glad to hear and inquire into, as will also the Department of the Interior.

Commissioner Turney then announced that this concluded the labors of the commission in Saint Paul.

EXHIBIT A A.

UNITED STATES INDIAN AGENCY,
White Earth, Minn., July 8, 1872.

Proposals are invited until August 1 for stumpage of the pine timber on the reservation of the Mississippi Chippewas, lying along the Mississippi River and its tributaries.

The reservation line runs from the mouth of Wanomin River due north. The pine lies between this line and the Mississippi River, to the mouth of Leech Lake River, and north of Leech Lake River on both sides of the Mississippi River to Lake Winnebago.

Proposals should state price per M for all timber within three miles of navigable streams, one-half to be paid when logs are scaled on the bank, and balance when delivered in the boom. Also the quantity not less than which will be cut or paid for each year.

Contract to run for four years.

EDW. P. SMITH.
United States Indian Agent.

WASHINGTON, *September 16, 1872.*

SIR: Not having seen a copy of the attached advertisement of Edw. P. Smith, United States Indian Agent, until after the 15th of August, I was not aware of the proposed sale of stumpage.

I now desire to make my proposition to you under the terms of the advertisement of Agent Smith, and would respectfully say that I will pay for the stumpage named \$1.60 per M feet. Should my proposition be accepted, I would enter into bonds at once for the faithful performance of the same, subject to such privileges and restrictions as are granted others in like contracts made by Agent Smith. As to my responsibility and ability to perform a contract if awarded me, I would respectfully refer you to the Hon. Alex. Ramsey, Hon. John T. Averill, or Hon. Jno. Jay Knox.

Very respectfully,

A. H. WILDER,
Saint Paul, Minn.

Hon. F. A. WALKER,
Commissioner of Indian Affairs, Washington.

EXHIBIT B B.

DEPARTMENT OF INTERIOR, OFFICE INDIAN AFFAIRS.

September 19, 1872.

SIR: Referring to your letter of the 16th instant, in regard to the purchase of pine timber upon the Leech Lake reservation of the Chippewa Indians of the Mississippi, and offering to pay \$1.60 per thousand feet for all that you may cut therefrom, you are advised that a letter was yesterday addressed to Agent E. P. Smith directing him to enter into contract with you in case he is satisfied no better terms can be secured by further advertisement.

Very respectfully, your obedient servant,

F. A. WALKER.
Commissioner.

A. H. WILDER, Esq.,
Saint Paul, Minn.

EXHIBIT C C.

OFFICE OF LAKE SUPERIOR INDIAN AGENCY,

Bayfield, Wis., December 20, 1872.

DEAR SIR: The letters of Major Smith, together with your favors, and the contract with accompanying bond are received.

I should be glad to sign the contract you send, and would do so and forward it at once but for instructions from the Department, under date of November 20 ultimo, which require me "to take no further action in the sale of the pine timber on the Lac Court Oreilles reservation until further directed."

If this restriction is removed I will at once sign and forward the contract you inclose, and notify you of my action by same mail.

Yours, very truly,

S. N. CLARK,
United States Indian Agent.

A. H. WILDER, Esq.,
Saint Paul, Minn.

EXHIBIT D D.

SAINT PAUL, *December 6, 1872.*

DEAR SIR: I forwarded to you, through Major Smith, some days since my proposition for pine timber. I now send, at Major Smith's suggestion, a contract for the timber signed by myself, and if you find it satisfactory, I trust you will execute it on behalf of the United States, and forward same to the Commissioner of Indian Affairs for approval. I also send you a bond properly approved.

Truly yours,

A. H. WILDER.

Maj. S. N. CLARK,

United States Indian Agent, Bayfield, Wis.

Please acknowledge receipt and oblige.

SAINT PAUL, MINN., *November 27, 1872.*

SIR: I understand that the Hon. Commissioner of Indian Affairs has authorized you to sell the pine timber standing on the reservation of the Lac Court Orielles band of Indians. If such is the case, I would respectfully propose to purchase the timber, and will pay for it at the rate of \$1 per thousand feet, for all the merchantable pine within three miles of streams suitable for running logs, the timber to be paid for in ten yearly payments. Should my proposition be accepted, I will immediately enter into a contract, (the usual contract for sale and purchase of such timber,) and execute the necessary bonds for the faithful performance of the same. My estimate of the quantity of timber standing on the reservation is 200,000,000 feet.

Very respectfully, your obedient servant,

A. H. WILDER.

Maj. S. N. CLARK,

United States Indian Agent, Bayfield, Wis.

G.

DISTRICT OF COLUMBIA,

City of Washington, ss:

Depositions of witnesses taken before me, John B. Thompson, a notary public in and for the District of Columbia, in the matter pending before commissioners appointed by the Secretary of the Interior to investigate certain charges preferred against Edward P. Smith, late Indian agent, and now Commissioner of Indian Affairs, by William Welsh.

BENJAMIN R. COWEN, of lawful age, being by me first duly sworn as hereinafter certified, deposes as follows:

Question by commission. State your name age, and residence.

Answer. Benjamin R. Cowen; age, forty-two; residence, Washington City, D. C.

Question. State what you know in reference to the contract entered into between the Office of Indian Affairs and Amherst H. Wilder, of Saint Paul, Minn., for the sale of certain pine and cedar timber in said State belonging to the Chippewa Indians, to said Wilder, and the

connection the respondent, Edward P. Smith, had with the same so far as the same came under your observation, and the agency that Commissioner Walker and yourself had in the same.

Answer. My recollection of the matter is, that pending the acceptance or rejection of the highest bid which Mr. Smith had received for that portion of the timber which grew upon and near the Mississippi River, Mr. Wilder came to Washington for the purpose of trying to secure a contract for himself for the sale of said timber. The highest bid then before the office for said timber was \$1.35 per thousand feet, and Mr. Wilder offered \$1.60 for the same timber. The matter was canvassed freely between General Walker, Commissioner of Indian Affairs, Mr. Smith, and myself, and it was agreed that the award was to be made to Mr. Wilder at \$1.60 per thousand feet, and a contract in accordance with this bid was ordered to be prepared. What may have transpired in reference to the subject-matter of the foregoing, or what proposition Mr. Wilder may have made to the Indian Office prior to that time, if any, I have no knowledge whatever, this being my first interview with Mr. Wilder, who was introduced to me by General Walker, then Commissioner of Indian Affairs, and my first knowledge of any measures having been instituted for the sale of the timber referred to. Before the contract for the sale of said timber was signed, it was suggested, I think by General Walker in a conversation with me, at which time I do not think Mr. Smith was present, that Mr. Wilder be asked to make a bid for the Leech Lake timber, and such a suggestion was made to Mr. Wilder by General Walker or by Mr. Smith. Some time afterward, Mr. Wilder made a bid of 50 cents per thousand for the timber lying adjacent to Leech Lake. General Walker deemed it more convenient to embrace all the timber in one contract, and suggested that an average be made of the price of the two separate classes of timber, and but one price named in the contract. The timber near the Mississippi River, I think was estimated at about \$20,000,000 feet, and that near Leech Lake at from 180,000,000 to 280,000,000 of feet. General Walker reached the average, however, by simply adding together the two prices, \$1.60 and 50 cents, taking one-half of the sum thus produced, which was \$1.05 per thousand. General Walker then insisted that the price should be \$1.25 per thousand. After some time spent in discussing this point by General Walker, Mr. Smith, and Mr. Wilder, the price was finally settled at \$1.15 per thousand feet for all the timber at Oak Point and Leech Lake, at which price the contract was drawn and signed. My recollection is that the price named by Mr. Wilder for the Leech Lake timber was the same as the highest price that had been offered before for that timber, by any other parties, and was thus comparatively low, because of its remoteness from the Mississippi River being so great that it might require two years to float it to market at any place on the Mississippi River.

During the negotiation above referred to, I do not remember that Mr. Smith manifested any special interest in completing the contract or arranging its details, and that he had apparently no more to do with the matter than General Walker and myself. I thought, then, as I do now, that the very best thing was being done for the Indians that could be done in their then destitute condition, as represented to the office. With this feeling I, as Acting Secretary of the Interior, approved the contract, and I think General Walker expressed to me the same belief, at the time he presented said contract to me for my approval.

Question. Have you any recollection of the discussion of the question of the right of the Department to order a sale of the timber without

the consent of the Indians; and, if so, please state how the matter was determined, and whether Mr. Smith participated in it, and to what extent?

Answer. I have no recollection of any discussion of the question of the consent of the Indians being necessary or not.

Question. Have you read the charges preferred by Mr. William Welsh against said Edward P. Smith, now under investigation by the commission?

Answer. I have.

Question. State whether you know any fact tending to sustain the said charges or any of them, or any documents or documentary evidence material to the investigation, that have not already been furnished to the commission?

Answer. I know of nothing which has transpired in connection with the subject-matter of the charges preferred by Mr. Welsh, or of any documents not already in the hands of the commission, in this office or in the Indian Office, calculated to sustain said charges. I know of nothing in regard to timber contracts with Mr. Wilder, beyond what I have stated in my answer to the first question.

Question. State whether Mr. Welsh has been in the habit of calling at your Department for the inspection of documents, and what has been the fact in regard to facilities afforded him in making such investigations.

Answer. The documents which Mr. Welsh would be most likely to wish to examine would be found in the Indian Office. I know that Mr. Welsh has called repeatedly at the Secretary's office and at the Indian Office for information, for permission to examine documents, and for copies of documents on file in those offices. I know that I have repeatedly given him information myself, and have directed clerks and others in the Department to furnish him with any information he might desire. I have also frequently heard the Secretary of the Interior give directions to myself and others to furnish Mr. Welsh with such information as he might ask for. I have no knowledge that he has ever been refused any information he sought, or a copy of any document which he requested.

Question. Do you know of any other matter or thing material to this investigation? If so, please state it.

Answer. I do not.

And further deponent saith not.

B. R. COWEN.

DISTRICT OF COLUMBIA,
City of Washington, ss :

In the matter of the investigation before the commissioners appointed by the Secretary of the Interior to investigate certain charges against Edward P. Smith, late Indian agent, and now Commissioner of Indian Affairs, by William Welsh.

EMILY S. COOK, now of the city of Washington, D. C., being by me first duly sworn, deposes and says as follows :

Question by Mr. E. P. Smith. State your name, age, occupation, and residence.

Answer. Emily S. Cook; age, 25; occupation, clerk, Office Indian Affairs; residence, Washington, D. C.

Question. Were you employed in the years 1872 and 1873 at the Chippewa Indian agency in Minnesota?

Answer. I was.

Question. Have you any knowledge relative to the statement that I made to the White Oak Point Indians concerning the contract to sell their pine to F. P. Clarke ?

Answer. I was only in the room at White Oak Point the morning after payment, during a council held with said Indians. Just before leaving, Mr. Smith spoke very severely to one chief because he had gone back upon his word which he had given in Minneapolis or St. Paul, don't remember which. He, Mr. Smith, expressed his regret at what the chief had done, and gave him warning not to try anything of that kind again.

Question. Did you understand what he had done ?

Answer. I could not have told from what I then heard what fault the chief had committed ; but I thought at the time I had never heard Mr. Smith speak more severely to any Indian, and so spoke of it afterward.

Question. Did you afterward learn what the subject-matter of the difference between the agent and Indians was ?

Answer. I learned afterward that this was the chief at whose request Mr. Smith endeavored to sell the White Oak pine.

Question. State what you know respecting the course I pursued after the Indians had gone back upon their request to sell their timber. State facts within your own knowledge.

Answer. We made the payment at White Oak Point on the 9th or 10th of October, 1872, and immediately after that council we took the steamboat down the Mississippi, leaving the steamboat for canoes the night of that same day, and arrived in Aiken on the 14th of October, where a telegram was sent to F. P. Clarke, at Minneapolis. This was the first chance of sending any message of any kind to anybody. On the evening of the 14th we reached Brainard, and we found there letters forwarded from White Earth—among them a letter from the then Commissioner of Indian Affairs, Mr. Walker, stating Mr. Wilder's proposition to buy the White Oak pine. Because I did not fully understand what had been done at White Oak Point, I asked Mr. Smith, "What will you do about this ?" His answer was : "There is not anything to be done, because those fellows at White Oak Point have gone back on the whole thing." The agent's letters always came to me first, as clerk. I opened them and gave them to Mr. Smith to read, and indorsed on the back the day of receipt. The indorsement on the back of this letter from Commissioner Walker, dated September 18, 1872, is October 14, 1872, the day on which we arrived at Brainard.

Question. About how long was this letter received after the telegram was sent from Aiken ?

Answer. The telegram to F. P. Clarke was sent from Aiken about 5 or 6 o'clock in the afternoon. We reached Brainard at about 10 o'clock same evening, and found this letter, forwarded from White Earth.

Question by commission. How do you know that telegram was sent ?

Answer. The telegrams were sent at Aiken, I knew. Mr. Smith always takes pains to keep copies of telegrams, which it is my business to preserve as vouchers. I generally get hold of them by looking among his papers ; and when I find any, as I did this, I preserve them.

Question. What telegram do you refer to as being sent to F. P. Clarke ?

Answer. The telegram of October 14, 1872, to F. P. Clarke, (a copy of which is attached and marked Exhibit ;) also, copy of letter then received from Commissioner Walker, and marked Exhibit.

Question. Was it possible for Mr. Smith to send a telegram from Aiken to F. P. Clarke, or anybody else, after the receipt of General Walker's letter on the 14th of October, 1872 ?

Answer. He remained in Brainard that night, and I saw him take a wagon next morning for Mille Lac. It was impossible to send such a telegram from Aiken on the 14th, after receiving Walker's letter in Brainard.

And further deponent saith not.

EMILY S. COOK.

Also appeared JOHN JAY KNOX, who, being first duly sworn, deposes and says :

Question by commission. State your name, age, occupation and place of residence.

Answer. John Jay Knox ; occupation, Comptroller of the Currency ; age, forty-five ; place of residence, Washington, D. C.

Question. State whether you are acquainted with Amherst H. Wilder, esq., of Saint Paul, and his character and standing as a business man and a citizen in the community where he resides. State what you know, if anything, as to his pecuniary ability to fulfill his contracts.

Answer. I am acquainted with Amherst H. Wilder, and believe his character and standing as a business man and citizen in the community where he resides is good, and should have full confidence in his pecuniary ability to fulfill his contracts.

And further deponent saith not.

JNO. JAY KNOX.

DISTRICT OF COLUMBIA,
City of Washington, ss :

Also appeared JOHN B. SANBORN, of lawful age, who, being by me first duly sworn, as hereinafter certified, deposes as follows :

Question by commission. State your name, age, residence, and occupation.

Answer. Name, John B. Sanborn ; age, 47 ; residence, Saint Paul, Minn. ; occupation, attorney and counsellor at law.

Question. State if you know Amherst H. Wilder, esq., of Saint Paul, Minn., and his character and standing as a business man and a citizen in the community where he resides. State what you know, if anything, as to his pecuniary ability to fulfill his contracts.

Answer. I know Amherst H. Wilder and have been well acquainted with him for sixteen years. His character and standing as a business man and citizen is the best and above reproach, so far as I know. He is a man of large pecuniary resources, being able to raise sums of money from fifty to one hundred thousand dollars in a day and at a time when the money-market was not easy. He has pecuniary ability to fulfill large contracts without delay and to wait for compensation for unusually long periods of time. He is one of the most prompt and active business men that I have ever known, and one of the most careful and correct in all his accounts and dealings.

And further deponent saith not.

JOHN B. SANBORN.

Also appeared B. A. SIMMONS, who, being by me first duly sworn, deposes as follows :

Question by the commission. State your name, age, occupation, and place of residence.

Answer. Byron A. Simmons ; age, 38 ; present occupation, a merchant ; and residence, Hartford, Conn.

Question. State whether you are acquainted with S. N. Clark, late Indian agent at Bayfield, Wis., and whether you are the same Mr. Simmons who contracted or attempted to contract for the pine-timber on the Lac de Flambeau reservation in Wisconsin, with said agent.

Answer. I am.

Question. Do you know Edward P. Smith, the present commissioner of Indian affairs ; also, Charles H. Howard, and the Rev. E. F. Williams, of Chicago ? If so, about how long have you known them, respectively ?

Answer. Have known Mr. Williams about eight years ; he is my brother-in-law. I first met Mr. Howard in, I think, September, 1872. I met Mr. Smith the fore part of November, the same year, (1872,) in Saint Paul.

Question. Please state the facts connected with your contract, or proposed contract, for the purchase of the pine on said reservation. What agency, if any, Mr. Smith, the accused, had in that negotiation, together with all that was done by yourself, Mr. Howard, or Mr. Williams in the contract, or said negotiation or preparation of contract, and all facts and circumstances connected therewith. Please state fully the entire transaction and your connection with the contract or the parties referred to.

Answer. I met Mr. Clark at Saint Paul the fore part of November. I had learned of the sale of the pine of the Lac Court Oreille reservation. I learned also that the pine on the Flambeau reservation was going to be sold. I asked Clark if I could buy it. He said he should like to sell it to me. I asked him if I could buy the pine on that reservation, paying a certain sum on it, and then giving the Indians a percentage of the profits. Mr. Clark said he thought I could. It struck him very favorably. He said to me if such a sale could be made there would have to be a commission appointed by Government to take care of the Indians' interest. He said to me "I should have to be one of that committee to look after them," and he wished me to lay the matter before General Howard and Mr. Williams, of Chicago, knowing I was acquainted with them ; and suggested to me, at the time, that there would be a commission of three, probably, and saying that he would like to have them on that commission. Mr. Clark agreed to have the timber estimated. I asked him to, and I was to meet him by appointment, in Chicago, in the February following. I went to Chicago and saw Mr. Howard, and laid the matter before him ; but did not suggest to him or to Mr. Williams, then or ever, to my recollection, their having any part in the committee that should be appointed, if any was. Mr. Howard thought favorably of the proposition, and I met Mr. Clark in Chicago the last of February. Mr. Clark had been to Washington, and informed me that he had consulted with the Department, and that such a contract could not be approved by the Department here. Before he received this information that the Government would not approve any such contract of partnership kind, I think I did correspond with him in reference to it, and perhaps as to the names of the persons whom he had suggested to form that committee. I met him in Chicago, and he wished me to buy it. I made him a proposition and he accepted it. He gave me a contract to use as a form to copy in drawing this contract. I was to pay in yearly payments. I drew up a contract, which he signed, embracing the terms of my proposition. This was in the afternoon, and that evening, or the next, Mr. E. P. Smith came there from Washington. I showed him the contract. He made objections to it, and suggestions about drawing up one which would be more acceptable to the Department. His proposition was to

shorten the time of payment to not more than ten years. Mr. Smith did not think the Department would approve the contract. Mr. Howard told me he was going to Washington soon, and I arranged to meet him there. That was after the contract was signed. Mr. Smith left for Saint Paul and I left for home that day after this talk. I had shown Mr. Howard and Mr. Williams the contract, although my negotiations were wholly with the agent himself. I came to Washington and met Mr. Howard, and expected to meet Mr. Smith, who had then been appointed Indian Commissioner. Mr. Smith did not arrive. I left my papers with Mr. Howard and asked him to present them to Mr. Smith on his arrival. I went home and the matter rested until Mr. Smith came to Washington. I heard at this time of Mr. Clark's situation, and that he had resigned. At the same time I received letters from my men in Wisconsin that they had not taken the right boundaries of the reservation to estimate it, and probably there were very large portions of the pine that they had not seen, and that my contract did not include. I telegraphed to Mr. Howard to withhold my papers, and wrote him to return them to me, giving these several reasons. Mr. Howard wrote me that he had shown the contract to Mr. Smith, and that Mr. Smith would not approve it or sanction its approval. Mr. Smith wrote me that he could not sell that pine without its being advertised. Mr. Howard returned the papers to me as directed, and I still have them in my possession.

Question. About what time were the papers returned to you ?

Answer. About the last of March, 1873.

Question. Did Mr. Howard, or any other person, have authority from you to file these papers in the Indian Office, or Interior Department ?

Answer. No.

Question. State whether E. P. Smith had any connection with these transactions other than those you have detailed, to your knowledge.

Answer. He did not.

Question. Please state whether Howard, Williams, or Smith, or any person other than yourself, had, or was to have, any interest in this proposed contract for the purchase of the pine spoken of.

Answer. No one had, or was to have, any part or interest in it whatever but myself.

Question. Please state whether you have been engaged in dealing in pine lands, or how you came to be engaged in purchasing this pine.

Answer. I have been dealing in pine lands in Wisconsin since 1871. I was west at the time I learned the fact that this pine was for sale, looking to my own interests there, and did not go out to purchase this. I owned, with other parties, about seven thousand acres of land in township 34 ; and these lands are in township 40 and 41.

Question. Please state how it was that Williams came to have any connection with this contract, or conference with Howard, or any one else in reference thereto.

Answer. I asked Mr. Williams to go up with me to witness the signing of the contract. He told me he had not seen Clark for some time, and would like to, and would go.

Question. How did you come to see or consult General Howard with reference to the contract, and what connection had he with these matters ?

Answer. Clark first suggested it to me, and asked me to see and consult with him. I did not know Mr. Clark's and Mr. Howard's relations at that time, but learned them from Mr. Howard.

Question. What position did General Howard then hold ?

Answer. Western secretary of the American Missionary Association.

Question. Did Clark think it advisable that he should be consulted with reference to this sale?

Answer. Yes.

Question. Did you have any consultation with Mr. Smith prior to the signing of this contract; if so, what was it?

Answer. I had never passed a dozen words with Mr. Smith before this contract was signed. Mr. Smith arrived from Washington after this contract had been signed.

Question. Have you, ever since these papers were forwarded by General Howard, attempted to have the contract made, or papers returned to the Interior Department?

Answer. No. I have never made any effort to have this contract approved since it was returned to me by Mr. Howard.

And further deponent saith not.

BYRON A. SIMMONS.

DISTRICT OF COLUMBIA,

City and County of Washington, ss :

I, John B. Thompson, a notary public in and for the District of Columbia, do hereby certify that the above and foregoing testimony of Benjamin R. Cowen, Emily S. Cook, John J. Knox, John B. Sanborn, and Byron A. Simmons, was taken before the commissioners appointed by the Secretary of the Interior, to investigate certain charges against Edward P. Smith, late Indian agent, and now Commissioner of Indian Affairs, in the city of Washington, D. C., on the 24th and 27th days of January, A. D., 1874, both days inclusive, upon written interrogatories.

That said interrogatories and answers were by me reduced to writing, and that before such examination said deponents were by me severally sworn to tell the truth, the whole truth, and nothing but the truth, in all matters before said commissioners pertaining to said investigation. I further certify that the foregoing testimony was signed by said respective deponents in my presence.

In testimony whereof I hereunto set my hand and notarial seal this 29th day of January, A. D. 1874.

JOHN B. THOMPSON,
Notary Public.

Depositions of witnesses taken before a commission appointed by the Secretary of the Interior of the United States to investigate certain charges preferred against Edward P. Smith, late Indian agent at White Earth, Minnesota, and now Commissioner of Indian Affairs, Said depositions being taken at the office of John A. Owen, at 185 Washington street, in Chicago, Illinois.

CHARLES H. HOWARD, of Chicago, called at the instance of the commission, testified as follows; after having been first duly sworn, as hereinafter certified:

Question by Judge JONES of the commission. State your name, age, residence, and occupation.

Answer. Charles H. Howard; age 35; residence, Chicago; occupation, publisher and editor of the Advance newspaper.

Question. Are you acquainted with Rev. Edward P. Smith, now Commissioner of Indian Affairs; if so, how long have you known him?

Answer. I am. I have known him upward of ten years.

Question. Are you acquainted with B. F. Simmons, of Hartford, Conn.?

Answer. I am.

Question. State what you know in reference to a negotiation which took place in or about the month of March, 1873, between said Simmons and Mr. Edward P. Smith in reference to the sale of certain pine timber or stumpage in the State of Wisconsin.

Answer. Mr. Simmons brought letters of introduction and testimonials to me from reliable parties, such as United States Senator Buckingham, Governor Jewell, General Hawley, now member of Congress from Connecticut, and others. He came to me as the Western secretary of the American Missionary Association, which position I held at that date, about the first of March, 1873, and as such had supervision of missions among the Chippewa Indians in Wisconsin. He proposed to purchase certain pine belonging to those Indians, and desired to confer with me as to the best way of making a contract for the best interests of said Indians consonant with the Government regulations and his own interest; said Indians were under the charge of United States Indian agent S. N. Clark. Agent Clark came to the city of Chicago, on his return from Washington, about that date. A contract for the sale of certain pine in Wisconsin was written and signed by said Agent Clark and Simmons. At the request of Simmons and Clark, I read the contract, with a view to the interests of said Indians and our missions among them. I do not think I was present when the contract was executed. About this date the then agent, E. P. Smith, above mentioned, called at my office in passing through Chicago. He was not understood as having any direct relations with those Indians, but, owing to his connection with other Chippewas and his former connection with our missionary association, I conferred with him in regard to the proposed sale of pine by Clark.

Question. State whether you formed any opinion whether the proposed sale was a fair one for the Indians; and if so, state upon what facts or information it was based.

Answer. I became convinced it was a good transaction for those Indians, from evidence furnished by the agent, Clark, and from the testimony of a timber expert who had been over the entire lot, and who gave explicit statements in my office, with plans showing the situation of the timber and topography. This expert was a resident of Wisconsin. I do not remember his name. My opinion was based upon the information thus obtained.

Question. State the substance of all the conversation which took place between yourself and Agent Smith, at Chicago, in reference to his contract.

Answer. I asked his opinion as to the value of the pine so far as he knew; also as to the advisability of a sale with annual payments, as proposed. He stated definitely the average prices of pine in his own jurisdiction in Minnesota, but thought we must depend mainly upon Agent Clark's information in regard to the price of the Wisconsin pine. He thought the plan of annual payments was a good one for the Indians, because the funds would in that way become available for civilizing purposes, whereas if all paid at once to the Indians, the funds would be more likely to be wasted by them. This is the substance of all our conversation, to the best of my recollection.

Question. Had you any knowledge at the time as to whether any parties other than Mr. Simmons were to be interested in this contract?

Answer. No knowledge further than his statement that probably another party in Hartford, Connecticut, would be interested with him ; the name was not mentioned.

Question. State whether there was any agreement, or understanding, or expectation, directly or indirectly, that you or the said Edward P. Smith were to have any interest in any manner whatever in said contract.

Answer. There was no such agreement or understanding or expectation of any kind whatsoever, then or afterwards.

Question. State what further connection said Edward P. Smith had with this transaction, if any.

Answer. Some weeks afterwards, being at Washington on other business, I was requested, by letter, by said B. F. Simmons, to present a copy of the before-mentioned contract either to the Secretary of the Interior or to the Commissioner of Indian Affairs for consideration with a view to its approval. I accordingly called on Mr. E. P. Smith, who had become Commissioner of Indian Affairs, and conferred with him in regard to the contract. My recollection is that he did not read over the contract at that time, but said that he was convinced that it would be better to have an advertisement of the proposed sale in the newspapers and an open sale. I stated to him that Mr. Simmons was urgent for an approval of that contract, and that he, Simmons, claimed that the terms were better than could be obtained by public sale after advertisement. Mr. Smith replied that he had conferred with the Secretary of the Interior on the general subject of sales of pine, and was positive that the better plan in Wisconsin would be an open sale. He said further, that if a contract of this before-mentioned kind should be approved by the Department, other parties interested in Wisconsin pine would probably interfere with its fulfillment and might possibly occasion loss and injury to the Indians, loss to the Government and to the contractor thereby.

Question. State what you did with the copy of the contract above mentioned, and what became of the other papers in relation to the same.

Answer. I mailed a copy of the contract and such other papers as I had to said Simmons at Hartford, Conn. The contract having been thus virtually disapproved, I did not consider it necessary to place it on file, and returned it as I had been requested to do by said Simmons.

Question. Had you ever known Mr. Simmons previous to his handing you the letters of introduction above mentioned at Chicago?

Answer. I think I had casually met him at the house of the Rev. E. F. Williams, in Chicago, and possibly once or twice before.

Question. State whether the conversation to which you have alluded was the first one you ever had with Mr. Simmons with reference to said contract.

Answer. It was; and my only interview with him afterwards was at Washington, subsequent to the conversation with Commissioner Smith above mentioned. He there repeated substantially what he had written, and I gave him in full Mr. Smith's statements to me, and recommended to him, Simmons, to watch for any advertisement and take advantage of a public sale to purchase the pine he wanted.

Question. State whether at any time you have had any knowledge or suspicion that there was any understanding or expectation that any official connected with the Indian service or the Interior Department was to have any interest, directly or indirectly, in the contract above mentioned.

Answer. I have never had any such knowledge or suspicion, nor ground for suspicion, of anything of the kind.

Question. If you know of any other matter material to the subject under investigation, state it fully and particularly.

Answer. Nothing further occurs to me.

C. H. HOWARD.

Subscribed and sworn to before me this 19th day of December, 1873.
[SEAL.]

JOHN A. OWEN,
Notary Public.

EDWARD F. WILLIAMS, being duly sworn, testified as follows:

Question 1. State your name, age, residence, and occupation.

Answer. Edward F. Williams; fully 21; residence Chicago, corner of Forty-seventh street and Drexel Boulevard. Pastor of Forty-seventh street Congregational church.

Question 2. Are you acquainted with Rev. Edward P. Smith, now Commissioner of Indian Affairs; if so, how long have you known him?

Answer. I am. I have known him for ten years, more or less.

Question 3. Are you acquainted with B. F. Simmons, of Hartford, Conn.?

Answer. I do not know such a man, but I do know B. A. Simmons. He is of Hartford, Conn.

Question 4. State what you know in reference to a negotiation which took place in or about the month of March, 1873, between said Simmons and Mr. Edward P. Smith in reference to the sale of certain pine timber or stumpage in the State of Wisconsin.

Answer. As I understand it, Mr. Smith had nothing to do with it whatever. If the contract had been carried out it would have probably come into his hands at the proper stage, when he was Commissioner. At this time Mr. Smith had not been confirmed or had not yet qualified as Commissioner. As Indian agent at White Earth, he could do nothing in this matter, and the only reason of our talking with him was that we might be sure that we were doing Indians no injustice; were keeping clear of all Indian rings, and were proceeding strictly according to law. When all parties came to know the condition of S. N. Clark Indian agent in Wisconsin, with whom the contract was made and by whom it was signed, action upon it was stopped and the papers were withdrawn. Mr. Simmons was not willing to be party to any transaction that might have the appearance of wrong. Mr. Simmons was informed that Agent Clark had become very intemperate and therefore could not be entirely trusted, and for that reason he was unwilling to press his contract. For this same reason Mr. Smith told me that he thought the Government would not be justified in approving any contract made by Clark, however favorable to the Indians or liberal in its terms.

Question 5. State whether you formed any opinion whether the proposed sale was a fair one for the Indians; and if so, state upon what facts or information it was based.

Answer. I thought it was eminently fair. My opinion was based upon reports made by Mr. Simmons as to the value of the timber. I thought he proposed to pay a fair equivalent for the timber, and in such installments as would be of great advantage to the Indians, and I think so still.

Question 6. State the substance of all the conversation which took

place between yourself and Agent Smith at Chicago, or at any other time or place in reference to this contract.

Answer. I have done it already in answer to fourth question.

Question 7. Had you any knowledge at the time as to whether any parties other than Mr. Simmons were to be interested in this contract?

Answer. There were no other parties than Mr. Simmons to be interested in this contract. His aim was to keep clear of all Indian rings.

Question 8. State whether there was any agreement or understanding or expectation, directly or indirectly, that you or the said Edward P. Smith were to have any interest in any manner whatever in said contract.

Answer. There was none.

Question 9. State the substance of all the conversation you had with Simmons in reference to this contract.

Answer. I cannot do it. I cannot state all a man said who was at my house three weeks. The substance was this, that a certain piece of land had on it so much timber, and was worth so much money; this he proposed to give just as any other man proposes to buy any piece of land or timber.

Question 10. State whether, at any time, you have had any knowledge or suspicion that there was any understanding or expectation that any official connected with the Indian service or the Interior Department, was to have any interest, directly or indirectly, in the contract above mentioned.

Answer. No, sir.

Question 11. If you know of any other matter material to the subject under investigation, state it fully and particularly.

Answer. I know of nothing further, and do not recognize the right of the commission to ask me the question. I have perfect confidence in the integrity of Edward P. Smith, and know that the charges brought against him by Mr. Welsh, of Philadelphia, are false; and I know that B. A. Simmons is an honorable man, and that his integrity is unimpeachable. I am persuaded that the Indian ring, finding that their ends could not be accomplished if Mr. Smith were continued commissioner, have gone to work in an underhanded way to secure his removal, and are using Mr. Welsh as their tool. The whole nature of the transactions in what they claim as fraud was honorable in every respect, and that charges should be brought against us argues terrible iniquity somewhere.

EDWARD F. WILLIAMS.

Subscribed and sworn to before me this 22d day of December, 1873.

JOHN A. OWEN,

Notary Public.

STATE OF ILLINOIS,

Cook County, ss :

I, John A. Owen, a notary public in and for the county of Cook and State of Illinois, do hereby certify that previous to the commencement of the examination of the said witnesses, Charles H. Howard and Edward F. Williams, they were each duly sworn by me true and full answers to make to such interrogatories as should be propounded to them, and each of them, in relation to the matters specified in the caption to their depositions herewith inclosed; that said depositions were taken at my office at No. 185 Washington street, in the city of Chicago, in the county and State aforesaid, upon the 19th and 22d days of Decem-

ber, A. D. 1873; that after said depositions were read over to said witnesses, respectively, the same were signed by each of them, as appears herein.

[SEAL.]

JOHN A. OWEN,
Notary Public.

DISTRICT OF COLUMBIA,
City and County of Washington, ss :

In the matter before the commissioners appointed by the Secretary of the Interior to investigate certain charges against Edward P. Smith, late Indian Agent, and now Commissioner of Indian Affairs, preferred by William Welsh.

Personally appeared EDWARD P. SMITH, who, being by me first duly sworn, further deposes and says :

Question by the commission. Mr. Smith, it is claimed by Mr. Welsh that one Lorin Fletcher was paid by Fred. P. Clarke, of Minneapolis, Minn., twelve hundred dollars, or some other sum, to use his influence with you to give Clarke a contract, at \$1.35, for the White Oak Point or Mississippi timber. Please state the facts within your knowledge relating to this matter; whether Fletcher had or attempted to execute any such influence; and whether you have had any interview with Fletcher, or conversation with him relative thereto. State the facts fully.

Answer. My recollection of what occurred at the letting of the contract to F. P. Clarke is not definite. When I returned from Red Lake to the agency post, the time for which proposals had been asked, I found Mr. Fletcher and Mr. Clarke waiting for me. Mr. Fletcher had come on business relating to payments due him; and also, if I remember correctly, brought one or two bids from some parties in Minneapolis. Of this, however, I am not certain. He, Fletcher, told me he had put in no bid for the pine, and did not want it. I saw him talking with Clarke, and supposed that he was acquainted with Clarke's proposition, and inferred that he would like to have Clarke receive the bid; but it was only by inference. Clarke's bid was the highest, and for that reason, and no other, the contract was let to him. It was not so high a price as I was expecting to get for the pine, and I declined completing the contract until I had received a certificate from a large number of the heaviest pine dealers in the State that it was sold at a fair price. I had no knowledge, whatever, of any arrangement between Mr. Fletcher and Mr. Clarke, and Mr. Fletcher had no influence, whatever, over me in procuring this contract for Clarke. He received it only because he was the highest bidder, and would have received it, so far as I know, equally the same if Mr. Fletcher had not been there. Since Clarke's statement, published in a Saint Paul paper, that he paid Fletcher twelve hundred dollars for his influence in procuring that contract, I have met Mr. Fletcher and asked him what it meant. He told me that Clarke's statement was not true, and admitted that Clarke did pay him twelve hundred dollars on his agreeing not to put in a bid for that pine, and for that consideration alone. Mr. Fletcher's statement to me is all the knowledge I have on that subject.

And further deponent saith not.

EDW. P. SMITH.

DISTRICT OF COLUMBIA,

City and County of Washington, ss :

I, John B. Thompson, a notary public in and for the District of Columbia, hereby certify that the above and foregoing testimony of Edward P. Smith was taken before me upon a written interrogatory of the commission appointed by the Secretary of the Interior to investigate certain charges against Edward P. Smith, late Indian agent, &c., &c., preferred by William Welsh; that before making answer, the said Edward P. Smith was by me duly sworn to tell the truth, the whole truth, and nothing but the truth, in all matters before said commission; that said interrogatory and answer was by me reduced to writing, and that the same was signed by the said Edward P. Smith in my presence.

In testimony whereof, I have hereunto set my hand and notarial seal this 31st day of January, A. D. 1874.

[SEAL.]

JOHN B. THOMPSON,
Notary Public.

Deposition of a witness taken to be used in a matter pending before a commission appointed by the Secretary of the Interior of the United States, to investigate certain charges against Edward P. Smith, formerly Indian agent at White Earth, Minnesota, and now Commissioner of Indian Affairs, at the office of Geo. S. Peters, a notary public in the city of Columbus, Ohio, on the 26th day of January, A. D. 1874.

S. N. CLARK, of Columbus, Ohio, of lawful age, being first duly sworn by me, as hereinafter certified, testifies as follows:

Question 1. By Judge JONES. State your name, age, residence, and occupation.

Answer. My name is Selden N. Clark; I am thirty years of age, and reside in Columbus, Ohio; and by occupation was late United States Indian agent for the agency of Lake Superior.

Question 2. Have you read the charges preferred by William Welsh against Edward P. Smith? and if so, state whether you know of anything wrong in the conduct of Mr. Smith in relation to the transactions referred to; and if so, state particulars.

Answer. I have read the charges to which you refer, and I know of nothing wrong in the conduct of Mr. Smith in relation to the transactions referred to.

Question 3. State what you know, if anything, of Mr. Smith endeavoring to stop the completion of the "Rust contract," and if he did, what was his purpose or motive so far as you know?

Answer. I know nothing about it; I believe his purpose to have been to secure a higher price.

Question 4. Was there any conspiracy entered into between Mr. Smith, Gen. C. H. Howard, and Rev. Mr. Williams, of Chicago, and yourself, or by any of these parties, to procure a fraudulent sale of pine timber in Wisconsin, belonging to the Indians, to one Simmons, of Connecticut?

Answer. Never, to my knowledge.

Question 5. Do you know of anything improper in the conduct of Smith in relation to the matter stated in the last question? and if so, state particulars.

Answer. No.

SELDEN N. CLARK.

I, Geo. S. Peters, a notary public of the State of Ohio in and for the county of Franklin, do hereby certify that the above-named Selden N. Clark was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing deposition, by him subscribed, was reduced to writing by me, and by said witness subscribed in my presence, and was taken at my office in the city of Columbus, Ohio, 47½ South High street, as stated in the caption; that I am not a relative or attorney of either party, or otherwise interested in the event of this proceeding.

In testimony whereof witness my hand and official seal this 26th day of January, A. D. 1874.

[SEAL.]

GEO. S. PETERS,
Notary Public.

H.

THE WILDER CONTRACT.

This agreement, made and entered into at the city of Washington, District of Columbia, this eighth day of November, in the year of our Lord one thousand eight hundred and seventy-two, between Edward P. Smith, United States Indian agent, representing the United States, party of the first part, and Amherst H. Wilder, of Minnesota, party of the second part, witnesseth :

That the party of the first part, for and on behalf of the United States of America, and the said party of the second part, his heirs, assigns, executors, and administrators, have mutually agreed, and by these presents do mutually covenant and agree, to and with each other as follows :

The said party of the first part hereby grants, bargains, and sells to the said party of the second part all the pine and cedar timber standing on the Indian reservation in the State of Minnesota, known as the "Leech Lake" Indian reservation, [being the reservation provided for in the second paragraph of the second article of the Chippewa treaty of February 22, 1855, (Stats. at Large, vol. 10, p. 1166,) for the Pillager and Lake Winnebagoish bands of Chippewa Indians; by the second article of the treaty of May 7, 1864, (Stats. at Large, vol. 13, p. 693,) and by the first article of the treaty of March 19, 1867, (Stats. at Large, vol. 15, p. 719,)] which may be within four miles from any stream navigable for driving logs, upon the terms following, viz:

The said party of the second part agrees to pay for all the pine and cedar timber on the reservation above mentioned within the limits mentioned, at the rate of one dollar and fifteen cents per thousand feet, in the manner following, to wit: It is agreed between the parties hereto that a survey of said timber, sold by the terms of this agreement, shall be made at as early a day as practicable, in the usual manner, by three persons, one of whom shall be the United States Indian agent, one to be designated by the Commissioner of Indian Affairs, and one by the said Wilder, the party of the second part hereto, the latter two to be experts, such survey to be subject to the approval of the Commissioner of Indian Affairs; and when such survey shall have been completed to the satisfaction of said Commissioner, due notice in writing of the amount of timber estimated by such approved survey shall be given to said party of the second part by the party of the first part, or his successor in

office ; and it is agreed that on the first day of May, eighteen hundred and seventy-three, the said party of the second part shall pay to the party of the first part, or his successors in office, (representing the United States,) in cash, the sum of ten thousand dollars ; and that on the first day of August, A. D. one thousand eight hundred and seventy-four, and on the first day of August of each and every year thereafter, and including the year A. D. one thousand eight hundred and eighty-three, the said party of the second part shall pay to the party of the first part, or to his successors in office, in cash, for the amount of logs which have, up to the first day of August in each year, respectively, been cut and driven, as the same shall appear by the certificate of the surveyor-general of logs for Minnesota, or his deputy for the proper district, at the rate of one dollar and fifteen cents per thousand feet, provided that payment shall always on the first day of August, of each and every of the years mentioned, be made of an amount equal to one-tenth of the whole value of the timber sold by the terms of this agreement, according to the approved survey above provided for, estimated at the rate of one dollar and fifteen cents per thousand feet as aforesaid : *Provided*, That the ten thousand dollars to be paid on the first day of May, A. D. one thousand eight hundred and seventy-three, shall be regarded as a part of the payment to be made on the first day of August, A. D. one thousand eight hundred and seventy-four, and shall be deducted therefrom : *And provided further*, That if at the end of the ten years there shall remain any timber included within the sale embraced by this contract which shall not have been cut from the reserve prior to that time, the party of the second part shall have the further term of ten years, viz, until the year one thousand eight hundred and ninety-three, to cut and remove the same agreeably to the conditions and terms hereinafter named ; and if at the end of the last ten years mentioned there shall remain any of the timber uncut within the limits embraced by the contract, then the same shall be paid for by the said party of the second part in accordance with a survey of the same, made by persons to be designated by the Secretary of the Interior : *And provided further*, That as the amount of pine and cedar timber involved in this agreement is not definitely known, but with general estimate that it will not greatly exceed two hundred millions of feet, and it is herein provided that if by the survey above agreed upon it shall be found that the above-mentioned reservation contains one hundred millions or more feet in excess of two hundred millions of feet, then the minimum amount of logs to be paid for each year until and including the year one thousand eight hundred and eighty-three, shall be one-tenth of two hundred and fifty millions, viz, twenty-five millions per year, and for the remaining term of years up to the last payment contemplated by this contract, the minimum amount of logs to be paid for annually shall be one-tenth of this excess of logs over and above two hundred and fifty millions, as determined by the survey above provided, and that the last payment herein provided for shall cover all the pine included within this contract then remaining upon the aforesaid reservation, and not having been already paid for.

It is hereby agreed that this contract shall embrace all the merchantable pine and cedar timber within the limits of the said reservation as above described, which will make merchantable saw-logs ; but that the said party of the second part shall not be obliged to cut or pay for, under the terms of this contract, unsound trees, nor for trees of less diameter at the top of twenty-five feet from the ground than fourteen inches.

The said party of the first part also grants to the said party of the

second part the privilege of entering upon the said Leech Lake reservation as soon as he sees proper hereafter, with such men and animals as he may employ, and grants the right to cut logs for the erection of houses and for fuel, as may be necessary in the execution of this contract; and also the right to cut grass for hay within the limits above described.

And the said party of the second part agrees to pay at the rate of one dollar per ton for all the hay which he may make from grass cut on said lands, payable annually at the time said timber hereby contracted for is paid; and it is further agreed hereby that the party of the second part shall cause to be marked with a distinctive mark, in such manner as the Commissioner of Indian Affairs shall direct, all logs cut from different and distinct parts of said reserve, so that the quantities cut from the different parts can be computed for the use of the Indian Bureau.

And it is further agreed that if any trespasses or depredations shall be committed by any of the Indians on said reservation, or belonging thereto, upon any of the property belonging to said party of the second part on said reservation while engaged in the execution of this contract, the damages ensuing from such depredations shall be estimated by a commission composed of the United States Indian agent, one person selected by him, and one person designated by the said party of the second part; and the amount reported by such commission shall be deducted from the next ensuing payment for timber to be made by the party of the second part in accordance with this contract, reserving to the United States agent to take from the limits embraced by this contract for the use of the agency all timber deemed necessary by him until the termination of the contract; hereby also reserving to the party of the first part, on behalf of the United States, the right to terminate and declare this contract and all action thereunder at an end whenever he sees proper, upon the failure of the party of the second part to perform any of the obligations thereof.

In testimony whereof the parties hereto have set their hands and seals on the day and year first above written.

EDWD. P. SMITH, [SEAL.]
United States Indian Agent, representing the United States,
Party of the first part.

AMHERST H. WILDER, [SEAL.]
Party of the second part.

Signed, sealed, and delivered in presence of—

W. R. IRWIN.

H. R. CLUM.

Bond.

CITY OF WASHINGTON,
District of Columbia, ss:

Know all men by these presents, that we, Amherst H. Wilder, of Saint Paul, Minnesota, as principal, and John J. Knox and Samuel S. Smoot, of Washington, District of Columbia, as sureties, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, lawful money of the United States, for which payment well and truly to be made, we, jointly and severally, bind ourselves and each of our heirs, executors, and administrators, firmly by

these presents, sealed with our seals and dated this eighth day of November, 1872.

The condition of this obligation is such, that if the said Amherst H. Wilder, his heirs, executors, or administrators, shall do and perform well and truly all and singular the covenants, conditions, and agreements whatsoever, which are comprised or mentioned in certain articles of agreement or contract, bearing date the eighth day of November, 1872, between Edward P. Smith, United States Indian agent, acting for and on behalf of the United States, and the said Amherst H. Wilder, concerning the sale of pine and cedar timber on the reservation known as the Leech Lake Indian reservation, in the State of Minnesota, more particularly described in said articles of agreement or contract, according to the true intent and meaning thereof, then this obligation to be null and void, otherwise to remain in full force and virtue.

In testimony whereof we have hereunto set our hands and seals on this eighth day of November, A.D. 1872.

AMHERST H. WILDER. [SEAL.]
JNO. JAY KNOX. [SEAL.]
SAML. S. SMOOT. [SEAL.]

Signed, sealed, and delivered in presence of—

F. A. SIMKINS.

CH. H. WINDER.

DISTRICT OF COLUMBIA, *to wit*:

I, John J. Knox, one of the above-named sureties, make oath that I am worth ten thousand dollars over and above all liabilities.

November 8, 1872.

JOHN JAY KNOX.

Sworn and subscribed before me the day and year aforesaid.

R. J. MEIGS,

Clerk of the Supreme Court of the District of Columbia.

DISTRICT OF COLUMBIA, *to wit*:

I, Samuel S. Smoot, one of the above-named sureties, make oath that I am worth forty thousand dollars over and above all liabilities.

November 8, 1872.

SAML. S. SMOOT.

Sworn and subscribed before me the day and year aforesaid.

JOHN H. JOHNSON, [SEAL.]

Justice of the Peace.

NOVEMBER 8, 1872.

I, George P. Fisher, attorney of the United States for the District of Columbia, do hereby certify that John Jay Knox and Samuel S. Smoot, the sureties to the foregoing bond, are good and sufficient for the penalty thereof.

GEO. P. FISHER,

Attorney United States District Court.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs, November 9, 1872.

The within contract is approved.

F. A. WALKER,
Commissioner.

Approved.

B. R. COWEN,
Acting Secretary.

I.

NEW HAVEN, CONN., November 13, 1873.

DEAR GENERAL: My earlier reply to your letter has been prevented by two engagements of an exacting nature, which I could not postpone. At your request I will state freely my recollection as regards the conclusion of the Leech Lake pine contract, subject, of course, to correction by maps and memoranda not now at hand.

The incidents of the transaction, as well as the order of incidents, stand somewhat differently in my mind from the relation of them in your letter, but I do not see that the differences are material to the question of the integrity of late Agent, now Commissioner, Smith.

The history of the affair, as I recall it, is as follows:

The Indian agent for the Chippewas of Minnesota, with the approval of the Department, offered for sale a body of pine timber, situated immediately at the *débouché* of one of the two streams passing through the Leech Lake reservation. The information in possession of the Indian Office showed the situation of this body of timber to be highly eligible, the facilities for "driving" the logs being all that could be desired. For this timber the only bids that were taken into account were two; one by, I think, Clarke, at \$1.35 per thousand, the other by Wilder, at \$1.60. Wilder being considered a responsible party, the Indian Office had no hesitation in recommending that his bid be accepted in preference to that of Clarke. Before, however, the contract was entered into between the agent and Wilder, the latter appeared at Washington, and expressed to me, as Commissioner of Indian Affairs, his reluctance to make good his bid unless the Department would give some assurance that other parties would not be let in to cut timber on the stream behind him, thus injuring his market, and possibly interfering with his laboring force. I informed Mr. Wilder that the Department could give no such assurance; that the same reason which made it desirable to sell one portion of the timber of the Leech Lake Indians might require the sale of other portions; and that the Department would hold itself free to act in the premises from time to time as the interests of the Indians required. Thereupon Mr. Wilder requested permission to submit a proposition for the cutting of substantially all the timber on the reservation, the work and the payments to be extended over a considerably longer time than had been stipulated in the bid for the portion first offered for sale. My impression is that Mr. Wilder requested me to consult with you as Acting Secretary of the Interior in regard to this last proposition, and that I did so at the time. If so, no conclusion was reached in the matter, nor was my mind much disposed to favor such an extension of the original plan, until Mr. Smith, then agent for these Indians, now Commissioner of Indian Affairs, being at the time in Washington, represented to the Office in very strong terms the inadequacy of the provision that would be effected by the sale of the timber first offered, and the necessity of doing something more to relieve the Leech Lake Indians from the miserable condition of vagabondage, and almost of starvation, in which they then were.

Mr. Smith's representations to the Office, as I remember them quite distinctly, may be summarized as follows:

First. That the sum realized from the sale of the body of timber first mentioned would be entirely inadequate to the extensive improvements which would be necessary to place these Indians in a condition of industrial self-support; that they had at present no land fit for cultivation; that other land on their reservation must be cleared and broken, stock and

agricultural implements purchased to a considerable extent, and that all this was not to be done with the maximum amount which could be expected to be realized from the sale first contemplated.

Second. That nothing could be immediately realized from the transaction, while the necessities of the Indians were immediate and urgent.

Third. That the Leech Lake Indians were in a most miserable condition of suffering, and, being naturally turbulent, were an object of terror to the settlements.

The above representations of Agent Smith, in regard to the condition and wants of the Indians, were confirmed by abundant information from other sources in possession of the Office, the turbulence of these Indians having proceeded to such a point during the year previous as to require the military to be marched to hold them in check. The question submitted by Agent Smith seemed, in effect, to be whether the Indians should be permitted to starve in possession of a valuable property which they could not use, or whether that property should be put into a form which would allow them to achieve their own self-support. To obtain from Congress a gratuitous appropriation for the support of these Indians, I considered entirely impracticable, even had it been a proper thing to request, at that late date, and in view of the large appropriation already made for the Indian service, and especially for other bands of the Chippewas of Minnesota. Whether Agent Smith submitted these considerations respecting the Leech Lake Indians to me separately, or presented them for the first time at the conference held between you and myself, on the subject, I cannot positively say, though such is my strong impression. Certain I am, however, that it was this view of the case as presented by Mr. Smith which determined me to recommend that the Department entertain Mr. Wilder's proposition for the entire body of the Leech Lake timber, and accept the same on two conditions: first, that a fair price could be obtained for the whole; second, that Mr. Wilder would make payment in advance of a considerable sum (I think \$50,000 was the sum mentioned) to enable the agricultural improvements to be commenced with the opening of spring. Upon the question in this form, the consultation between you, Mr. Smith, and myself was free and informal, and an affirmative decision was reached, to the entire satisfaction of all the parties to the conference.

In my accession to this result, I do not hesitate to say that I was very largely influenced by the high reputation which Mr. Smith had sustained as an Indian agent, unsurpassed by that of any officer in that branch of the service, and by the confidence which I had acquired through consultation and correspondence with him, in his good judgment and practical wisdom as well as in his official integrity. I have, of course, never intended to place myself in the hands of any official subordinate, to the extent of accepting his recommendations, without the exercise of my own independent judgment; yet for the facts of this case I was necessarily obliged to rely upon the representations and reports of the agent, confirmed as they were by all information obtained from other sources. I have still no doubt that it was for the interests of the Government and the Indians alike that the Leech Lake timber should be sold at a fair price.

In regard to the price to be paid, I can only say that I believed, and still believe, that \$1.15 per thousand for the whole body of the timber was as good a price as \$1.60 for the comparatively small portion first offered; certainly a very much better price than \$1.35, the highest bid besides Wilder's for that portion of the timber. The greater portion of

the remaining timber on the reservation was situated far less advantageously for "driving" the logs, having to pass through a lake which is all frozen on the first approach of winter, so that they cannot be got out until the second year. The amount which Mr. Wilder was required to deposit in advance to the order of the Indian Office, and the substantial bonds required from him for the proper completion of his contract, were far more than sufficient to cover the highest estimated value of the first-offered timber, for which Mr. Wilder himself had bid \$1.60, and no other party more than \$1.35, so that it was entirely impossible that Mr. Wilder should cut this timber first, and then refuse to execute the rest of the contract at the average price.

Here, again, in the matter of a fair price for the whole body of the timber, I had a reasonable reference to the judgment of Agent Smith, who stated that he was fully conversant with its location, and deemed the sum named to be reasonable and adequate.

In the course of the transaction and the conferences which preceded it, I know that I was actuated by consideration only of the interests of the Indians and the Government; and I fully believe that the same motives alone actuated yourself as Acting Secretary of the Interior, and Mr. Smith, as agent for the Indians. If the contract was an improper one, which I have no more reason now than I had then to suppose, we are all responsible therefor, each in his own place and degree, you and I for giving undue weight to the representations of the agent, the agent for making representations which, if false, he must have known to be false.

This is the way the matter stands in my mind, and I am quite ready to meet my own responsibility in the premises. I did accede to the result, under the circumstances, and for the reasons stated, and I have yet to be convinced that my action was erroneous. What information the Department may have subsequently received going to the propriety or impropriety of this contract, I do not know, as I have had neither time nor opportunity to keep myself posted on current Indian affairs since my retirement.

I have always believed, and still believe, Mr. Smith to be an honest, conscientious, and capable public officer. So believing, I was glad, as Commissioner of Indian Affairs, to have him for a subordinate. So believing, I shall, as a private citizen, cheerfully lend him the support of my voice.

Very truly yours,

FRANCIS A. WALKER.

Gen. B. R. COWEN,

Assistant Secretary Interior, Washington.

In the matter of the charges against Edward P. Smith, late United States agent for the Chippewa Indians of Minnesota :

STATE OF CONNECTICUT,

County of New Haven, ss :

Francis A. Walker being duly sworn, deposes and says that he formerly held the position of Commissioner of Indian Affairs for the United States; that he dictated and caused to be written the foregoing letter, purporting to be addressed to Gen. B. R. Cowen, Assistant Secretary of the Interior, Washington, under date of New Haven, Connecticut, November 13, 1873; that he signed the same with full and precise knowledge of its contents; that the statements therein contained were true to the best of his knowledge and belief at that time.

And the said deponent further deposes and says that at the time of the negotiation of the sale of timber to A. H. Wilder, referred to in the letter aforesaid to the said Cowen, he had not, to the best of his knowledge and belief, ever heard that the Indians at Oak Point had refused to ratify the contract with one Clarke, referred to in the foregoing letter.

And further the said deponent saith not.

FRANCIS A. WALKER.

STATE OF CONNECTICUT,

New Haven, County of New Haven:

On this 28th day of January, A. D. 1874, personally appeared before me Francis A. Walker, who subscribed the annexed deposition and made oath to the truth of the same.

In testimony whereof I have herewith set my hand and the seal of the superior court of the State of Connecticut, the day and year above written.

ARTHUR D. OSBORNE,

Clerk of the Superior Court for New Haven County, in Connecticut.

LETTER FROM ATTORNEYS FOR THE PROSECUTION.

To the Hon. Nelson J. Turney, William R. Jennings, James Smith, jr., and T. C. Jones, commissioners appointed to investigate charges made against Edward P. Smith, late agent of the Chippewa Indians of Minnesota:

GENTLEMEN: Since informing you that we should prepare and present charges and specifications against Edward P. Smith, touching his official action as Indian agent in Minnesota, we have received and examined various letters and documents which have been forwarded here by Mr. William Welsh, of the city of Philadelphia, for whom we appear as attorneys, and have prepared such specifications as the information laid before us would seem to justify; but many of the charges can only be substantiated by the presence of witnesses who are scattered over, not only this State, but other States, and cannot be procured on the short notice given by you for the investigation. A number of parties have become interested in the Wilder, Merriam and Rust contracts, and the united influence of such interested parties is brought to bear to suppress the facts in connection with said contracts, and volunteer witnesses in support of the charges cannot be hoped for. There are many persons, as we have reason to believe, in this and other States, who could give material testimony, but who will not do so, unless compelled by legal process.

From many prudential considerations they are unwilling to come into collision with Commissioner Smith, the Indian Department, and those interested parties who wish to uphold the contracts. We are informed also, that some important papers in connection with this inquiry have disappeared from the Indian Bureau at Washington, since Mr. Smith became Commissioner of Indian Affairs, and that the facts relating to the matter can only be shown by witnesses residing in the Eastern States.

We have therefore been considering the authority by which you are appointed, and your powers to enforce the attendance of witnesses, to administer oaths, and compel the production of papers, &c., for without these powers the investigation can result in little more than farce; and we are surprised to find that you possess none of these very essential

powers for this investigation. We find no authority for your appointment to investigate the conduct of Commissioner Smith, except the general power that any bureau officer may possess to order an informal inquiry into the conduct of one of his subordinates. You have no power to subpoena a witness, or in any way compel his attendance, or compel the production of a paper, or to administer an oath, or compel a witness to testify if present, or if testifying, to answer any question that he might not choose to answer. Under these circumstances you can gain no information except such as is volunteered. Mr. Welsh has informed us, since your appointment, that Secretary Delano himself admits that you have not any of these powers. We must, therefore, in view of the want of jurisdiction and the necessary powers on your part in the premises, respectfully decline to appear before you in the matter.

We may further remark, that from copies of letters and papers before us, we are of opinion that a thorough investigation by a commission clothed with these necessary powers, will reflect unfavorably upon the official conduct of Secretary Delano, from whom you hold your appointment.

Certain it is, that nothing but a commission authorized by law, and empowered to compel the attendance of witnesses and the production of papers, giving ample notice of the time of their meeting, can bring out the truth, or a semblance of it, in connection with the management of Indian affairs in this State and Wisconsin, under Agent Smith. Before such a commission we are at all times ready to appear, and prosecute our charges.

JNO. M. GILMAN,
GEO. L. OTIS,

Attorneys for Wm. Welsh and Harlan P. Hall.

ST. PAUL, *December 8, 1873.*

K.

WHITE EARTH, MINN.,
October 25, 1872.

SIR: Referring to Office letter of September 18, respecting the contract for cutting pine belonging to the Mississippi Chippewas, and disapproving the contract made with F. P. Clarke, and forwarding bid of A. H. Wilder, I have the honor to state that before the receipt of this communication, disapproving the contract with Mr. Clarke, I met the Mississippi Chippewas at White Oak Point in council, and learned from them, for the first time, that their second chief, Mah-je-nay-we-dung, who came to me last June as the representative of the band, delegated to request me to sell their pine in the manner that I thought most for their interests, was not acting under authority from the chiefs of the band. They repudiated any such commission, and he confessed that he had none.

Under these circumstances I notified Mr. Clarke at once that my negotiations with him were nullified by this want of authority from the Indians. I have also notified Mr. Wilder that I have no permission or request to sell their pine.

Very respectfully, your obedient servant,

ED. P. SMITH,
United States Indian Agent.

Hon. F. A. WALKER,
Commissioner Indian Affairs, Washington, D. C.

R E P O R T

OF

COMMISSION APPOINTED BY THE SECRETARY OF
THE INTERIOR

TO

INVESTIGATE CERTAIN CHARGES AGAINST HON. E. P. SMITH,
THE COMMISSIONER OF INDIAN AFFAIRS.



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